

# HEARINGS RELATING TO MADISON GUARANTY S&L AND THE WHITEWATER DEVELOPMENT CORPORATION—WASHINGTON, DC PHASE

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## HEARINGS BEFORE THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS SECOND SESSION VOLUME III ON HEARINGS INTO WHETHER IMPROPER CONDUCT OCCURRED REGARD- ING COMMUNICATIONS BETWEEN OFFICIALS OF THE WHITE HOUSE AND THE DEPARTMENT OF THE TREASURY OR THE RESOLUTION TRUST CORPORATION

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AUGUST 1 AND 2, 1994

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Printed for the use of the Committee on Banking, Housing, and Urban Affairs

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# HEARINGS RELATING TO MADISON GUARANTY S&L AND THE WHITEWATER DEVELOPMENT CORPORATION—WASHINGTON, DC PHASE

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## VOLUME III

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MONDAY, AUGUST 1, 1994

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, DC.*

The Committee met at 10:40 a.m., in room SD-106 of the Dirksen Senate Office Building, Senator Donald W. Riegle, Jr. (Chairman of the Committee) presiding.

### OPENING STATEMENT OF CHAIRMAN DONALD W. RIEGLE, JR.

The CHAIRMAN. The Committee will come to order.

Let me welcome everyone and invite those standing to find seats so that we can begin today's hearing.

I am going to make just a very brief, descriptive comment as to the focus of today's hearing and introduce the witnesses before inviting them to come to the table and take the oath.

Today, the Senate Banking, Housing, and Urban Affairs Committee is beginning our second day of public hearings into that phase of the inquiry that we've been assigned to do on Madison Guaranty/Whitewater, to try to determine whether there were improper communications between officials at the White House and the Department of the Treasury or the Resolution Trust Corporation related to this matter.

The Committee is acting in this investigation under specific legislative instructions from the Full Senate; that is, Senate Resolution 229, which mandated this inquiry and instructed us to begin these hearings no later than last Friday, which, of course, we did.

Today, there will be two important panels of witnesses here to testify. The first panel will consist of witnesses from the Resolution Trust Corporation. Let me introduce them by their background and experience and then, in a moment, I will invite them to come to the table.

Mr. John Ryan, who was named Interim Deputy Chief Executive Officer of the Resolution Trust Corporation on December 23, 1993, and assumed his official responsibilities on January 4, 1994.

Prior to joining the RTC, Mr. Ryan was Southeast Regional Director of the Office of Thrift Supervision, serving in that capacity from 1989 through the end of 1993.

Before that, Mr. Ryan served as Senior Executive Vice President and Chief Regulatory Officer at the Federal Home Loan Bank of Boston.

The second person on the panel is Ellen B. Kulka. She is the General Counsel of the Resolution Trust Corporation and has held that role since January 1994. Prior to that, she was Regional Counsel for the Northeast Region of the Office of Thrift Supervision.

The third member of the panel is Mr. William H. Roelle, currently Deputy to the Director of the Federal Deposit Insurance Corporation.

Mr. Roelle is a career Government employee, having served with the FDIC for 25 years. He returned to the FDIC from the Resolution Trust Corporation on January 3, 1994, and is currently its Deputy to the Director. While at the RTC, Mr. Roelle served as Senior Vice President, Division of Institution Operation and Sales, and as Chief Financial Officer.

The final member of the panel this morning will be Mr. Stephen J. Katsanos, who is Director of the Office of Corporation Communications for the Resolution Trust Corporation.

He established that office on August 8, 1989. Prior to his assignment at the RTC, he served as Assistant Director of the Corporate Communications Office at the Federal Deposit Insurance Corporation, a position he held since September 1985.

This afternoon, just to give everyone an indication of that part of our day, the second panel will consist of just a single witness, Jean Hanson, who is the General Counsel of the U.S. Department of the Treasury.

Ms. Hanson was previously employed at Fried, Frank, Harris, Shriver, and Jacobson, from 1976 until March 1993. She served as a consultant to the Department of Treasury from March 1993 until June 1993, when she was confirmed into her present position by the U.S. Senate.

These two panels will focus on the matters that I've discussed.

Let me invite, then, our first four witnesses to come to the table in front of the name tags that are there. I'm going to ask you to stand and raise your right hand.

Do you swear that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RYAN. I do.

Mr. ROELLE. I do.

Ms. KULKA. I do.

Mr. KATSANOS. I do.

The CHAIRMAN. Very good. Please be seated.

Mr. Ryan, I'm going to begin with you. You're the senior person at the table. I understand you have an opening statement you wish to make.

Mr. RYAN. Yes, Mr. Chairman.

The CHAIRMAN. Very good. Why don't you pull that microphone a little closer to you so you can be heard, and we'd be pleased to have your statement at this time.

**STATEMENT OF JOHN E. RYAN, DEPUTY AND ACTING CHIEF  
EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION,  
WASHINGTON, DC**

Mr. RYAN. Thank you, Mr. Chairman.

My name is John E. "Jack" Ryan. I'm the Deputy and Acting CEO of the RTC.

I became CEO on January 4, 1994, and assumed the role of Acting CEO on March 30, 1994.

I'm a career regulator with over 30 years' experience as a senior regulatory official with the Federal Reserve Board and more recently with the Office of Thrift Supervision where I served as the Director of the Southeast Region of that agency since October 1989.

Over the course of my career, I have dealt with and managed many of the financial crises that have occurred in the United States during the past 20 years including Continental Illinois, Penn Square, the foreign debt problem, and the savings and loan crisis, to name just a few.

Last December, I agreed to serve temporarily as Deputy CEO of the RTC until a permanent CEO could be found. When I agreed to the temporary assignment, it was my understanding that the process of selecting a permanent CEO was well underway and I anticipated that my tenure would be limited to a matter of a few weeks.

Obviously, that expectation turned out to be incorrect and my job has now expanded to Acting CEO.

As of this moment, I have no idea what the current status of the selection of a permanent CEO is, nor do I know how much longer I will have this responsibility.

As I have repeatedly told the RTC staff, I will continue to discharge my responsibilities, including those relating to Madison Guaranty, as though I was the permanent CEO and to the best of my ability.

The RTC is fully cooperating with this Committee in the conduct of these hearings. The RTC has provided the information and data requested by this Committee and has made staff available for depositions and testimony. The RTC is also cooperating fully with Special Counsel Fiske, the House Banking Committee, the Treasury Office of Inspector General, the RTC Office of Inspector General, the General Accounting Office, and the Office of Government Ethics in their investigation of various aspects of this matter.

During my deposition before Counsel for this Committee and before Special Counsel Fiske, I have been asked a number of questions which generally fell into the following categories:

No. 1, how I came to be selected for this job;

No. 2, my authority as Deputy CEO, which was my position when most of the events that are the subject of this hearing occurred;

No. 3, my relationship with Mr. Altman and the Administration;

No. 4, my knowledge of and/or participation in the White House-Treasury contacts;

No. 5, whether I was ever instructed or pressured by the Treasury or the White House to influence the investigation or the outcome of the investigation into Madison Guaranty Savings & Loan; and

No. 6, whether I have done anything to impede or change the results of the RTC's investigation. For example, did I tell the RTC staff that I preferred a finding that Whitewater did not cause a loss to Madison?

I will cover for the record, briefly, my summary of the answers to these questions.

First of all, concerning how I was selected for this job, I can only report what I know. I received a phone call in December 1993, while I was in Atlanta with the OTS, from Frank Newman, Under Secretary of the Treasury, whom I had known professionally when he was with Bank of America and I was at the Federal Reserve. Mr. Newman's call came not long after the nomination of Mr. Stanley Tate, as CEO, had been withdrawn, and he asked if I would consider a temporary assignment at the RTC.

I traveled to Washington for two interviews, one with Mr. Altman and one with Secretary Bentsen. Those interviews were the first time I had met either of those gentlemen, either Mr. Altman or Secretary Bentsen.

I don't believe the subject of Madison Guaranty came up during the course of those interviews, as most of the discussions dealt with morale problems at the RTC and what could be done about them. At those interviews, I agreed to serve as Deputy CEO of the RTC. The position of Deputy CEO is a statutory one enacted in the RTC Completion Act. There was no Deputy CEO before me and, as a result, the existing RTC organizational structure and delegations of authority did not provide for a Deputy CEO when I arrived.

In fact, some of the senior officials of the corporation, by law, were required to report directly to the CEO. The lack of clear authority in the RTC's corporate structure, together with the temporary nature of my appointment and the fact that the Deputy Secretary of the Treasury remained CEO, created a very challenging environment in which to assume operating responsibility.

Obviously, much of my time in the early days was spent trying to gain an understanding and some control over an organization that is surprisingly decentralized with functional units operating independently of each other.

The precise decisionmaking responsibility is not only difficult to explain under such circumstances, but my observation is that it is often not clear to those working at the RTC as well.

During my tenure as Deputy CEO, I reported directly to Mr. Altman, who was the Interim CEO. It should be noted that Mr. Altman essentially withdrew from active RTC management following the February 24, 1994, Senate Banking Committee's RTC Semi-annual Oversight Board hearing, some 7 weeks after my arrival.

During the period preceding the hearing, regular meetings were scheduled to discuss RTC matters. But due to Mr. Altman's busy schedule, many of these meetings never took place.

The subject of Madison Guaranty, as I recall, may have come up 3 or 4 times during the course of those meetings. The discussions were procedural in nature and I'm quite certain that the substance of any allegations was not discussed.

Let me note that Mr. Altman's instructions to me and to the other RTC staff always was to deal with Madison Guaranty the same as the RTC would deal with any other similar institution.



Regarding the meetings and/or contacts between Treasury and the White House, I first learned of the February 2, 1994, White House meeting in Mr. Altman's office during a question and answer session being held shortly before and to prepare for the February 24, 1994, Senate oversight hearing. I had no prior knowledge of this meeting and was unaware of any other contacts with the White House until I read about them in the press.

As the Committee is aware, there have been press reports that a Kansas City investigator was told by a visiting RTC Washington lawyer that I would like to show that Whitewater did not cause a loss to Madison because it would "get us off the hook."

I have never instructed anyone to do anything but find the truth and work to see if the RTC had a cost-effective civil case, as is our regular procedure.

In the final analysis, any judgment on the conduct of this investigation should be based on what is actually being done and on the results of the investigation that is underway.

During my tenure, the RTC has taken the following steps: First, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information; second, the request of the Office of the Inspector General to review the RTC-generated report of the Rose Law Firm, as well as billings of that firm with respect to Madison; third, the retention by the legal division in early 1994 of Pillsbury, Madison, and Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to Special Counsel Fiske. When the RTC has completed its investigation and taken appropriate action, a full report of this matter will be made to the Congress. We fully expect to be judged by our actions at that time.

Finally, I wish to state that no one at the Treasury has exerted any pressure or instructed me to do anything to influence the outcome of RTC's investigation of Madison Guaranty, and I have never talked to anyone at the White House about Madison Guaranty or anything else, for that matter.

I would be happy to answer any questions the Committee might have.

The CHAIRMAN. Thank you, Mr. Ryan.

Ms. Kulka, I understand you have a statement to make.

Ms. KULKA. Yes, I do.

The CHAIRMAN. We'd be pleased to hear from you now, and maybe I can ask you to move the microphone just a little closer, too, so people in the back of the room are able to hear you clearly.

#### **STATEMENT OF ELLEN B. KULKA, GENERAL COUNSEL, RESOLUTION TRUST CORPORATION, WASHINGTON, DC**

Ms. KULKA. My name is Ellen Kulka. I have been the General Counsel of the Resolution Trust Corporation since January 17, 1994. Before that, from February 1991 to January 1994, I was the Regional Counsel for the Northeast Region of the Office of Thrift Supervision in New Jersey. My first Government employment was in this capacity.

Other than this period of Government service and a few years as assistant professor at the Graduate School of Management at Rutgers University, my entire professional career had been in the pri-

vate sector, where I practiced corporate, securities, and banking law.

I have been frequently asked how I could possibly have accepted the job I now hold because of the widespread perception that the RTC operates in a difficult environment and might even be characterized as having had a history as a very troubled agency in which anyone associated with it is subject to disparagement or worse. And it is true that many urged me not to accept the position because of its thankless, grueling nature.

I would like to share with you my reasons for doing so because they are relevant to my perception of my responsibilities.

I was first interviewed for the position of General Counsel in the spring of 1993, 1 year after the death of my husband following a 4-year illness. In my more than 30 years of marriage, it had been he who had encouraged me to become a lawyer and to take on a full-time career, all this when it was an exception to the acceptable role of a woman with small children.

During all those years, I had gladly limited my practice to the New Jersey area because of the needs of my family.

In the spring and the late fall of 1993, as I weighed whether I should first seek and then accept a position at the RTC, it was my children, who are now young adults, who were the strongest advocates for my doing so.

So, in fact, the overriding factor in my coming to Washington was personal—the desire to start anew, with an absorbing and challenging set of responsibilities. This is one circumstance where getting your wish carries with it more than could be anticipated.

From a professional standpoint, I was, in fact, urged by a number of colleagues and acquaintances seriously to consider taking the job because they felt that I would bring to it strengths in a number of areas which were important to the task—my love of dealing with novel and difficult problems, my approach to problem-solving, which involved integration of overriding policy or strategic issues with an understanding of pragmatic concerns and, finally, my interest in management, as well as in the practice of law.

I understood that I was accepting a position with a short life because the RTC will sunset on December 31, 1995, and thought that this was a plus since it would be hard to make a commitment to such a stressful and demanding position for a longer period.

Furthermore, since my personal goals did not involve seeking public office or remaining in Washington permanently, and I have, in fact, maintained my residence in New Jersey, I could come to the position without worrying what this job might lead to. Therefore, I would be able to maintain my independence.

I saw the job as one similar to that which a trustee in bankruptcy performs—managing a complex set of operational and, in my case, legal issues, while working toward the restructuring of a massive organization as it winds up its affairs.

In the course of seeking advice from my colleagues about what was most important to weigh in coming to a final decision about accepting the position, one of them stressed the importance of working with a CEO whom you could respect and with whom you could share a common vision of the agency's mission.

This seemed to be the best advice I had received, so I asked who would be the new permanent CEO of the RTC.

I was told that a new CEO was expected to be nominated shortly, but his or her identity could not be shared with me at that time. However, a Deputy CEO for the RTC who would have day-to-day operating responsibility was about to be appointed immediately, to fill the new position created by the Completion Act, which became effective on December 17, 1993.

His name was John E. Ryan. While I had never worked with Jack Ryan, I had met him while I was at the OTS where he was the Regional Director for the Southeast Region, based in Atlanta. More importantly, I knew him by reputation to be strong, smart, and independent and of enormous personal integrity. He had already had a long, distinguished career in bank and thrift regulation.

Very pleased, I accepted the position.

The RTC legal division has a big job. Over 80 percent of the agency's lawyers provide legal services in connection with the operation and winding up of over 700 receiverships and conservatorships and the sale of hundreds of billions of dollars of assets.

Attorneys provide legal expertise in contracting, structuring, and selling real estate assets and securities portfolios, and the myriad of legal issues that any large corporation encounters.

When I came to the RTC, I found a legal division that consisted of a number of independent practice areas that were geographically dispersed, providing legal services to various institutional clients within the RTC. I saw that one of my principal objectives was to develop a management structure and philosophy that would integrate the practice areas so that each area of the legal division would work with a better understanding of, and regard for, the other areas and the overall goals of the agency.

I also understood that the legal work of the RTC included managing a significant number of professional liability matters in which the agency pursues claims against directors, officers, lawyers, accountants, and others who had injured savings and loans for which the RTC had been appointed receiver or conservator.

To date, these efforts have resulted in collections of almost \$2 billion. I knew that the agency had been criticized, on one hand, for abusing its power and bringing the full weight of the Federal Government to bear indiscriminately on those who rendered services to the S&L's and, on the other hand, for failing to pursue zealously the wrongdoers who have destroyed a large part of an industry and cost the American taxpayer so much.

I believed, and continue to believe, that the overriding goal is to pursue in a cost-effective, tenacious, and fair manner the best cases that can be brought against those whose behavior was egregious.

The RTC must bring those suits which are cost effective. It is not charged with punishing wrongdoers or prohibiting them from participating in the banking industry. That is the responsibility of other Government agencies.

Overwhelmingly, those I have worked with closely in the legal division since I have come on board have exhibited extraordinary commitment, integrity, and talent. Preserving the legal division's ability to maintain the staff it needs to do its remaining work and

to keep morale high is one of the most important and challenging tasks I face.

Thank you.

The CHAIRMAN. Thank you very much. I understand, Mr. Roelle and Mr. Katsanos, that you do not have opening statements.

Mr. ROELLE. That's correct.

Mr. KATSANOS. Yes.

The CHAIRMAN. Very good. I'm going to start, then, with you, Ms. Kulka.

First of all, I think your late husband gave you good advice to come back into public service and I appreciate your statement that you've just given to us.

Now, I think I should explain that all of you have earlier been cross-examined in a deposition by attorneys, and so, you've made statements prior to today. Part of what we will do is review some of those statements you made earlier.

Let me start with you in that regard. I want to lay a foundation for some questions that I want to pose to you.

On February 2, 1994, you were the Chief Legal Officer at the RTC. Is that correct?

Ms. KULKA. Yes.

The CHAIRMAN. Also on that date, February 2, 1994, you were the senior lawyer in charge of the overall investigation and evaluation of Madison Guaranty matters for the RTC. Is that correct?

Ms. KULKA. That's correct.

The CHAIRMAN. Also on February 2, 1994, did you then understand that the President and the First Lady, in their individual capacities, might be subject to a civil lawsuit brought by the RTC?

Ms. KULKA. I understood that their names had been mentioned in connection with Madison Guaranty and that there were transactions involving a corporation they had a participation in that was connected with Madison Guaranty.

The CHAIRMAN. Now, on February 1, 1994, did you brief Roger Altman, who then was the Interim CEO of the RTC, about the specific status of the case preparation of the Madison case?

Ms. KULKA. I don't recall the exact dates when I had meetings with Mr. Altman that would have dealt with Madison. But it is the case that, early in February, I did meet with him and discuss procedural aspects of the case.

The CHAIRMAN. What about the specific status of the case preparation?

Ms. KULKA. What I discussed with Mr. Altman related to the effect of the extension of the statute of limitations as it was enacted in the Completion Act that was effective December 17, 1993, and any claims that might arise out of the Madison Guaranty failure, because Madison Guaranty had been taken over by the Federal Government, essentially, and a receiver appointed in February 1989, the statute of limitations having run in 1992.

I understood the effect of the extender that was provided by the Completion Act meant that, with respect to claims that were fraud or intentional misconduct, there would be a retroactive reopening of the statute of limitations from the period in 1992, when it had originally run with this institution, and that it would again expire with respect to any claims that could be made with this institution

in February, again, the end of February 1994. I discussed that and other aspects of bringing a case by that date with Mr. Altman.

The CHAIRMAN. Our information indicates that discussion, in all likelihood, was on February 1, 1994, but you indicate it was early in February. This question then becomes, I think, an important one.

When you had that meeting with Mr. Altman about this case, did you make it clear that you were not yet ready to make a decision on the case, the agency was not ready, and that it was unlikely that you would be able to have as much information as you would need to have before the February 28, 1994, statute of limitations would expire?

Ms. KULKA. No.

The CHAIRMAN. You did not say that.

Ms. KULKA. No.

The CHAIRMAN. All right. Now, on February 1, 1994, did Roger Altman inform you, or the date of this meeting, which we think was on that date, that he was going to the White House on February 2, 1994, to explain the information that you'd given to him?

Ms. KULKA. No.

The CHAIRMAN. You had no knowledge of an intention on his part to do that?

Ms. KULKA. I had no knowledge of his having gone to the White House or of any intention to do so with respect to anything on this subject until the question and answer session that we were conducting with Mr. Altman immediately prior to the Oversight Board hearing held by the Senate in late February.

The CHAIRMAN. So, by the fact that you did not know he was going, he obviously didn't invite you to go with him. Is that correct?

Ms. KULKA. That's correct.

The CHAIRMAN. I want to read you a section of a deposition that Mr. Ickes gave to our Committee about this February 2, 1994, meeting to which Mr. Altman went. There's two or three parts to it, so bear with me here. This will be information that you will be hearing for the first time, I think.

Mr. Ickes says the following:

The purpose of this meeting on February 2, 1994, at the White House, and the focus of Altman's discussion, was the relationship of the time that he felt this investigation might be wrapped up.

He said, at least in so many words:

That it was his understanding that the investigation probably would not be concluded and that a determination could not be made by the RTC's General Counsel as to whether there was the basis for a civil claim until after the expiration of the statute of limitations.

Now that's a direct quote that I've just given you from Mr. Ickes.

Later in his deposition, he was asked this question:

With respect to the information that the inquiry could probably not be wrapped up to the General Counsel's satisfaction, the inquiry about Madison could not be wrapped up to their satisfaction, before the statute of limitations would expire as far as you knew, was that public knowledge when he said it?

This was the second question to Mr. Ickes, and he answered:

I don't know whether it was public knowledge or not. I assume that it was. When you say public, did the public in general? No, I don't think it was. I don't know whether it was. But it was my assumption that this information was not known to the public in general and probably very few people inside the Administration.

Is it fair to say that was not public information at that time?

Ms. KULKA. It's fair to say that all of those statements are inaccurate if they are meant to be a report of anything I told Mr. Altman.

They are directly contrary to the advice I gave Mr. Altman.

The CHAIRMAN. He makes no reference to you here in his answers. Mr. Ickes is talking about—because you weren't at the meeting, he's talking about what was represented, as he remembers it, by Mr. Altman at the meeting.

Ms. KULKA. Since I have no knowledge of what Mr. Altman said or what Mr. Ickes heard, or anyone else at that meeting, I can only tell you what I advised Mr. Altman, and that is not a reflection of it.

The CHAIRMAN. Right. But the question I asked you was, was that information public information at the time?

Ms. KULKA. I'm sorry. I don't mean to argue with you, Senator, but that information, if you say that we wouldn't be able to form a decision about bringing a case, is not accurate.

So, it wasn't public, but it wasn't so. It couldn't have been public or private because it was never the advice I gave or the position we were taking.

The CHAIRMAN. I see.

Ms. KULKA. I'm sorry.

The CHAIRMAN. No. That's what we want to do, we want it to be as clear as we can make it here.

Ms. KULKA. Right.

The CHAIRMAN. That's why these questions have to be asked and answered, so there's no question about it.

We'll come back to that because Mr. Ickes, obviously, has given a different recollection of the events at that time.

Senator D'Amato.

#### OPENING COMMENTS OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. Mr. Chairman, I'd like to maybe follow up on something.

Ms. Kulka, in the February 1, 1994, meeting where you gave your briefing to Mr. Altman, do you recall who else was present?

Ms. KULKA. I really don't recall. I think that Mr. Ryan was present, but I don't recall if anybody else was.

Senator D'AMATO. Mr. Ryan, were you there?

Mr. RYAN. I don't recall.

Senator D'AMATO. Was Benjamin Nye there? Do you recall Benjamin Nye?

Ms. KULKA. I don't recall.

Senator D'AMATO. I'm going to read you his testimony. Benjamin Nye is an assistant at the Treasury Department. Do you know Benjamin Nye?

Ms. KULKA. Yes, I do.

Senator D'AMATO. What is his position?

Ms. KULKA. I think he's an assistant or a special assistant to Mr. Altman.

Senator D'AMATO. He was at this meeting. I have a deposition here. I'll read you part of it. This is a question being put to Mr. Nye:

Why don't you tell me, in your own words, what was discussed at the meeting?

*Answer:* I believe it was a discussion about RTC issues, more generally. But one of the issues, I believe, was this question of procedurally, what Ellen Kulka should do or, you know, the questions she would face procedurally, on the Madison case.

*Question:* One of those issues was whether an action should be commenced or not commenced?

*Answer:* The issue, as I understand it, was, in light of the circumstances, the February 28, 1994, expiration of the statute of limitations, whether one should seek a tolling agreeing or drop cases or file suits based on what she deemed would be imperfect information.

*Question:* What did Mrs. Kulka say about the imperfect, or the information at that point?

*Answer:* Just that she wouldn't have enough time between—her feelings were that she wouldn't have enough time between then, the date of the meeting—and that date was February 21, 1994—and February 28, 1994, the statute of limitations expiration, to make an informed, a decision as she would need to make.

In her opinion, that wouldn't be enough time to, sort of, go through all of these mountains of documents and so forth or for her staff to do so, so, ultimately, she would have to be making a decision with the best information possible at that time.

*Question:* So the shortness of time and the inability to develop fully the facts of that case was identified as problems?

*Answer:* Yes.

*Question:* Did Mr. Altman or Ms. Hanson offer any advice or discussion on those with Mrs. Kulka?

*Answer:* Only it wasn't so much a response as to, sort of, informing him—him, being Roger—of the situation and making him realize that the recommendation would be coming to him.

Does that refresh your recollection, your discussion that you would have difficulty completing this investigation? Mr. Altman recalls it that way, and Mr. Nye, who was there, has given us information. We know that later on, by way of depositions, Mr. Altman actually goes to Mr. Ickes and advises Mr. Ickes of this.

Ms. KULKA. I do not understand anything that you just read to be inconsistent with my recollection of what I've said.

If I may explain the advice I gave, and what the tenor of the discussion was, I would appreciate it.

I told Mr. Altman that it is certainly an unusual circumstance to have the short period of time we had to examine such a complex set of issues, and that no prosecutor that I knew or plaintiff's lawyer, would want to have to put together this kind of case in that period of time. I said we were committed to do it and would do the best we could, given the period of time, to put together any cases we saw against anyone we could show had engaged in conduct that fit within the definitions of fraud or intentional misconduct.

Further, to the extent that we couldn't do the best job, we would do what we could to file the complaints we needed to file, amend them later if further discovery after the date made that appropriate—

Senator D'AMATO. Did you say this, with that kind of detail?

Ms. KULKA. That's correct.

Senator D'AMATO. Or did you—then Mr. Nye did not accurately represent your views when he said you said you wouldn't be ready to go forward.

Ms. KULKA. That's correct. I never said that. I said we would be bringing forward a couple of different approaches and that it may well be that one of the approaches with various, any potential parties who might be named defendants, would be to seek tolling agreements, as I believe, Mr. D'Amato, you had urged us to do in

some of your correspondence, so that we could have a better record to go forward on.

But that, in any event, if we thought there was any case that could be made, and we wouldn't be subject to Rule 11 sanctions under the Federal Rules of Civil Procedure, we would be prepared to file those complaints, whether or not we received tolling agreements, if we believed that was appropriate.

Only in the case where we did not have any information that would lead us to believe that we could make a good faith case against someone whose conduct was either intentional wrongdoing or fraud, would we decide not to go forward with that case.

Senator D'AMATO. Let me ask you something. You're an experienced litigator representing a client on the civil side who had a potential civil action being brought against him by an agency.

If you're aware that a case was not complete, would you enter into a tolling agreement with that vital information?

Ms. KULKA. I did explain to Mr. Altman the circumstances under which I understood potential defendants would or would not enter into tolling agreements.

Senator D'AMATO. But, I'm saying to you, if you were advised—you, as a private attorney—that the information was not complete and the Government was contemplating bringing a case against your client, would you recommend that your client enter into a tolling agreement if you were armed with that information?

Ms. KULKA. Under a variety of circumstances, I may well recommend that. It has to do with whether my client wants an action filed against him or her, where he believes that additional information may be able to convince the plaintiff or the prosecutor that filing is not appropriate, and therefore—

Senator D'AMATO. Isn't that information very unusual to be given and is never given—would you give that information to a client or to a prospective person that you're going to bring a suit against? Would you give them the information, that the file was not complete, if indeed you might want a tolling agreement, you would be seeking a tolling agreement?

Ms. KULKA. I would not give that information.

Senator D'AMATO. Thank you very much.

Let me ask you one other thing, Ms. Kulka, because my little red light is on.

During the time of mid-January through February, you discussed this Madison matter with Mr. Altman on several occasions. Is that correct?

Ms. KULKA. I'm sorry. Would you repeat the date, sir?

Senator D'AMATO. From January through mid-February.

Ms. KULKA. Yes.

Senator D'AMATO. OK. Were there any other specific cases in which you gave a briefing to Mr. Altman during that period of time when he was the head of the RTC?

Ms. KULKA. The only other case that I remembered was the Diamond litigation.

Senator D'AMATO. OK. What is the Diamond litigation?

Ms. KULKA. This is litigation where the RTC, as receiver, has property that is subject to the rent control laws in New York. The RTC has carried this case through the circuit court successfully to



pre-empt the State rental control laws and to free certain of the units from the application of that law.

This was another case where we had a lot of congressional inquiry and the Deputy Secretary and Interim CEO were interested in it.

Senator D'AMATO. Is that the only other case you ever spoke to Mr. Altman about?

Ms. KULKA. That's the only other case I recollect speaking with him about.

Senator D'AMATO. OK. Thank you very much.

The CHAIRMAN. Senator Dodd.

#### **OPENING COMMENTS OF SENATOR CHRISTOPHER J. DODD**

Senator DODD. Thank you very much, Mr. Chairman.

Let me thank all of you, by the way, for being here today. I think it's important to pick right up on the line of questioning that Senator D'Amato has raised with Ms. Kulka.

Let me ask you very directly, did you tell anyone that the RTC would not bring a case because of the inability to put documents together prior to February 28, 1994?

Ms. KULKA. No, sir.

Senator DODD. You talked to no one about that, at the White House? The Treasury?

Ms. KULKA. I never said that to anyone at the RTC because that was not the case.

Senator DODD. Nor at the White House?

Ms. KULKA. I've never spoken to anyone at the White House.

Senator DODD. Nor at the Treasury Department?

Ms. KULKA. No, sir.

Senator DODD. Thank you very much.

Mr. Chairman, I think it's important for the purpose of clarity here to lay out exactly where we are with regard to this phase of the investigation.

Let me quote from Mr. Fiske regarding this particular question the Committee is asked to address—that is, whether or not any illegal activity occurred surrounding the so-called contacts issue. I quote from the Fiske statement. He says:

The evidence is insufficient to establish that anyone within the White House or the Department of the Treasury acted with the intent to corruptly influence an RTC investigation. Therefore, the evidence of the events surrounding the contacts between the White House and the Treasury does not justify the prosecution of anyone for the violation of Section 1505, which is obstruction of Federal proceedings.

We have also concluded that the evidence does not justify a criminal prosecution for violation of any other statute.

I think it's very important that that statement by Mr. Fiske be included in the record.

Second, Mr. Chairman, I think it's important to note that the Office of Government Ethics concluded in the last 24 or 48 hours that there were no ethical violations in this matter at all. I think it's important to note that.

Now this Committee may draw a different conclusion, but I think it's important that the record reflect that, at this particular juncture. I think it's also important to note who the Office of Government Ethics is run by—Stephen Potts, who was appointed by President Bush. This is not a Lloyd Bentsen appointee. It's an independ-

ent agency that Secretary Bentsen asked to examine this issue on March 3, 1994, and at the request of Mr. Fiske, delayed that investigation until June 30, 1994.

They spent the last month going over all the documentation and that independent agency, under the direction of an appointee of President Bush, concluded there were no ethical violations in this particular matter.

Now, if I may—

The CHAIRMAN. Senator Dodd, before you go on, that report is out and I think we ought to make it a part of our own records just for reference purposes.

Senator DODD. I would move that that be the case.

The CHAIRMAN. Without objection, it is so ordered.

Senator DODD. I would point out as well that they pointed out some troubling contacts and this Committee ought to examine those troubling contacts.

I think it is important. When I first heard about it, I thought, well, maybe this is just a Treasury Department group. I discovered it was an independent agency under the direction of Mr. Potts and career people, not political people, looking at these issues.

Now, I'd like to ask each and every one of you to respond to the following question, and I'll begin with you, Mr. Roelle.

Did any official at the White House ask you to take, or instruct you to take any action to obstruct or impede the Resolution Trust Corporation's handling of either the criminal or civil cases against Madison Guaranty?

Mr. ROELLE. No, sir.

Senator DODD. Ms. Kulka?

Ms. KULKA. No.

Senator DODD. Mr. Ryan?

Mr. RYAN. No.

Senator DODD. Mr. Katsanos?

Mr. KATSANOS. No, sir.

Senator DODD. What is it?

Mr. KATSANOS. No, sir.

Senator DODD. Did any one of you take any action to obstruct or impede the Resolution Trust Corporation's handling of either the criminal or civil cases against Madison Guaranty? Mr. Roelle?

Mr. ROELLE. No, sir.

Ms. KULKA. No.

Mr. RYAN. No, sir.

Mr. KATSANOS. No, sir.

Senator DODD. I thank all four of you. Mr. Chairman, I'll yield back the balance of my time to others who may have some questions.

The CHAIRMAN. Very good; Senator Dodd.

Senator Bond.

#### OPENING COMMENTS OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Mr. Chairman.

Since my colleague from Connecticut has brought into the record this report of the Secretary of the Treasury from the Office of Government Ethics, dated July 31, 1994, I thought just for the record,

I would give you what my very brief analysis of that is. We've only had a few hours to look at it.

I'll have to say that, first, this is not an investigation by the OGE. It is an analysis of some of the information now before us that was presented to it by the Treasury.

It clearly does not have all of the information we have, and they expressly state that they have not interviewed members of the White House staff, employees, or the President. It expressly excludes any comment on White House officials' ethics.

It relies on some technicalities and some debatable assumptions which we will get into later on.

It does say, as my friend from Connecticut pointed out, that: "The standards of conduct are not a yardstick by which all Government actions can be measured, and conduct that some may perceive as unethical does not violate the standards of conduct."

They say on page 3: "Many of the contacts detailed in the report are troubling." I think that troubling nature is something that we have to address here.

The report did apparently conclude that there were some unethical activities by a former employee of the RTC on pages 15 and 16, but says that: "Since he was no longer employed, it was not within their scope of examination."

I do find it very helpful, in light of some of the testimony that was presented before the House, that the OGE spent some time examining the proposition that a leak, a press inquiry, or a potential press inquiry would justify disclosure of confidential information.

And on page 6, this letter says: "Documents containing information about referrals to the Department of Justice are generally exempt from public disclosure by virtue of Exemption B(7) of FOIA."

The fact that—and I'm skipping some of the verbiage—the fact that information has been leaked would not cause an agency to consider the information to have lost its nonpublic character.

A waiver of the FOIA exemption has not occurred because of an unauthorized disclosure, citing cases.

This proposition regarding the nonpublic nature of information that has been leaked would hold true as well under a relevant section of the standards of conduct.

Now, at the bottom of page 6, they go on to say: "The RTC's disclosure policy may have been violated in the case of information regarding a criminal referral being discussed without the necessary authorization." They raise a question whether such an authorization would comport with the RTC's disclosure policy.

The analysis goes on to suggest that Ms. Hanson is not covered because she does not have a personal friendship or nongovernmental affiliation with the President or Mrs. Clinton.

Reading that, one immediately calls into question whether there is such a relationship between her supervisor, Mr. Altman, who gave those instructions.

Later on, I found that there is probably no way that, under the view of the OGE, Mr. Altman could violate the standards of ethics with respect to the President. They say on page 11, they don't know what Mr. Altman's role in the disclosure of September 29, 1993, may have been, but "there's insufficient information to en-

able us to provide you with any further analysis of Mr. Altman's participation in this disclosure."

Then, on page 20, they say: "Mr. Altman's friendship with the President is not a covered relationship that would necessarily trigger the recusal procedures in the relevant section of the standards." They do say Mr. Altman's actions in this regard, "are somewhat confusing."

The thing that further calls into question this report is that having established the clear principle that a leak to the press or a potential leak does not justify disclosure of nonpublic information, they then proceed to justify the discussions and disclosure between the Treasury and the RTC on the basis of the fact that there was an impending leak to the press.

As I said, no disrespect to my friends from Pennsylvania, but this gives a Philadelphia lawyer a bad reputation.

There are some specific questions I think we will address later on. On page 19, it assumes that Mr. Altman's disclosure had been cleared in advance with an ethics official. I think the information we have will call that into question.

You have already raised the critically questioned assumption on the basis of time of the completion of the RTC analysis, a question which Ms. Kulka has provided in her testimony. We have other testimony before us.

I think it is noteworthy that the OGE exonerates Mr. Eugene Ludwig in regard to the responses to the President's questions and certainly it appears that Mr. Ludwig has done nothing improper. But it does not make any comment on the President's action in inquiring.

It further raises questions about the calls to Mr. Stephens, but finds that responding to those calls was in no way improper.

It seems to me if we are to accept the analysis of the OGE, then no communication of nonpublic information by the head of a regulatory agency to the President, which may be of great personal interest to the President, could violate the ethics or conflict of interest standards.

That may be good enough for the Office of Government Ethics, but I submit that I, for one, do not believe that that kind of standard is adequate, nor do I think it should limit the inquiries of this Committee or the questions we pose to the witnesses.

I thank the Chairman.

The CHAIRMAN. Senator Sasser.

#### OPENING COMMENTS OF SENATOR JIM SASSER

Senator SASSER. Thank you very much, Mr. Chairman.

Ms. Kulka, as General Counsel for the Resolution Trust Corporation, you had the responsibility of retaining various attorneys and law firms around the country to try to effect collections from failed S&L's and failed S&L officers and others that would flow back into the RTC, did you not?

Ms. KULKA. Yes.

Senator SASSER. Now, Ms. Kulka, let me ask you, in the case of the hiring of the Jay Stephens law firm, who began the process that ultimately resulted in the hiring of Jay Stephens to represent

the Resolution Trust Corporation in the question of civil charges against Madison?

I ask that question for this reason. Mr. Jay Stephens was a former U.S. Attorney appointed by, I believe, the Administration of President Bush, and was viewed by some in this area to be a fairly partisan prosecutor.

I'm not saying he was or he wasn't. That was just the way he was viewed by some in the Washington area.

Who began the process of hiring Mr. Jay Stephens?

Ms. KULKA. There was a discussion amongst the staff working on the matter that, very early on, we needed to have outside counsel. The process by which outside counsel was identified was begun by the Senior Counsel on this matter, pursuant to normal RTC procedures.

Senator SASSER. And I understand—so Mr. Stephens was hired just in the ordinary course of business there and in the ordinary way that attorneys and law firms are retained by the Resolution Trust Corporation.

Ms. KULKA. May I expand on that a little bit, Mr. Sasser?

Senator SASSER. Yes, please.

Ms. KULKA. Mr. Stephens wasn't hired. The firm of Pillsbury, Madison, and Sutro was hired. In connection with identifying an appropriate law firm to handle this, the Senior Counsel identified four law firms—I don't remember the names of the others—who had experience in complex, sensitive litigation who might be able to handle it. The Senior Counsel asked for bids, asked who had legal services agreements with us where their rates were fixed, and asked for them to provide proposals or bids which would describe cost factors, expertise, and so on.

In the course of doing that, the Pillsbury firm identified the personnel, as they must, to comply with our regulations, who might work on the matter. They identified a number of people, including three partners. The lead partner was clearly going to be a person who had handled other high-profile, sensitive matters, and that was a man named Mr. Patterson.

Another partner they identified to work on the matter was Jay Stephens who, my staff advised me, was the immediate former U.S. Attorney in Washington who had been appointed by a Republican.

Senator SASSER. All right.

Ms. KULKA. If I just might add one more thought.

Senator SASSER. Sure.

Ms. KULKA. I came to Washington in the middle of January and, in fact, in the middle of a snowstorm. I do not recollect ever having heard of who Mr. Stephens was before in the North. I knew nothing about the controversial nature of remarks he had made or who he was, other than what my staff told me.

Senator SASSER. The firm of which Mr. Stephens was a partner was hired the same day, I think, that Secretary Altman testified before this Committee. Isn't that true?

Ms. KULKA. I really have never looked at the day the engagement letter was signed. They were identified before, and may have even started to work before then.

Senator SASSER. The point I'm driving at is this. Mr. Jay Stephens' law firm was hired at a time before Secretary Altman

recused himself and the Jay Stephens law firm was hired in the ordinary course of business of the Resolution Trust Corporation, because it met the objective criteria of the agency, I presume.

Ms. KULKA. That's correct.

Senator SASSER. So, if Mr. Altman had wanted to act as a tool of the Administration to kill the Madison case, it would have not been very wise to retain the services of the Jay Stephens law firm, would it?

Ms. KULKA. Mr. Altman never had any role in the selection of counsel and he never tried to.

Senator SASSER. Right. That's the point I'm trying to make, Ms. Kulka, and I thank you for making it.

Mr. Roelle, is it your testimony that in October 1993, Mr. Altman told Ms. Hanson, the General Counsel for the Treasury Department, in your presence to go tell Mr. Nussbaum, the Counsel for the White House, about the press leaks that might be attendant to the proposed criminal referrals to the Justice Department?

**STATEMENT OF WILLIAM H. ROELLE, FORMER SENIOR VICE PRESIDENT AND CHIEF FINANCIAL OFFICER, RESOLUTION TRUST CORPORATION, WASHINGTON, DC**

Mr. ROELLE. I surmise that. He didn't say it that way, Senator. He instructed her to tell a number of people about the impending news release on this matter and he mentioned the name Bernie, along with several other names. He did not say Mr. Nussbaum.

Senator SASSER. Did you make that surmise there that day when Mr. Altman allegedly made this communication to Ms. Hanson?

Mr. ROELLE. No, sir. I didn't even think about it until, actually it was later when I was thinking about it that I realized it could have been Mr. Nussbaum. I remarked to my wife that night it's possible that's who he meant, although I do not know. All I know is that he said Bernie.

Senator SASSER. Did you make the connection that it might be Mr. Nussbaum after the meeting with Mr. Altman and Ms. Hanson?

Mr. ROELLE. Yes, sir.

Senator SASSER. That's curious that it wouldn't occur to you until after the meeting.

In other words, he referred to Bernie in the meeting, but it was not until after the meeting that it occurred to you that he might be talking about the White House Counsel, Mr. Nussbaum.

Mr. ROELLE. No, I don't think it was curious at all. I had seen something on the press that night about Bernie Nussbaum and it occurred to me at that point that's who he might have meant.

Senator SASSER. Mr. Roelle, when it occurred to you that he might have meant Bernie Nussbaum, the Counsel for the White House, what was your reaction? Did you think it was proper for Ms. Hanson to discuss this matter with Mr. Nussbaum?

Mr. ROELLE. It was a matter of a pending leak that the press had gotten hold of. I, myself, would have wished there had been no contact at all with the White House. But I made no inference one way or the other about what was appropriate in terms of a press leak.

Senator SASSER. Right. Did you make any attempt to contact either the General Counsel for the Treasury Department, Ms. Hanson, or Secretary Altman to tell them, in your judgment, it might be unwise or even improper for Ms. Hanson to contact Mr. Nussbaum and tell him about these referrals that might be coming?

Mr. ROELLE. I don't think that was the discussion. We weren't discussing the referrals. I had told——

Senator SASSER. Excuse me. You were just discussing the press leaks.

Mr. ROELLE. Yes, sir, and it wasn't about the referrals, specifically. It was the fact that the referrals were now apparently public information, insofar as the press had them, and we had been told by inquiries from the press that it was likely to run in the next day's or the following day's newspapers.

Senator SASSER. I guess the question I have then—I see my time is expired, Mr. Chairman. But, I guess the question I have is if these referrals were public knowledge—that is, the press had them and you thought they'd be in the press the next day—what was wrong with, in that instance, the General Counsel, Ms. Hanson, discussing it with Mr. Nussbaum, because they were going to be in the newspaper?

Mr. ROELLE. I don't recall ever saying that I thought there was anything wrong with it. I think that, in most of these situations, it's not a matter of right and wrong. It's a matter of——

Senator SASSER. Appearance?

Mr. ROELLE. To me it is. But I come from a long history of being a regulator and dealing with these matters in absolute confidentiality.

I think, in my testimony to your staff, I indicated that I was making no judgments as to the ethics standards or the law. It would just, in my judgment, had been better had nobody known about this.

Senator SASSER. Would it have been better if the press had not known about it?

Mr. ROELLE. Absolutely.

Senator SASSER. All right. Thank you, Mr. Roelle.

The CHAIRMAN. Thank you, Senator Sasser.

Senator Mack.

#### OPENING COMMENTS OF SENATOR CONNIE MACK

Senator MACK. Thank you, Mr. Chairman.

Mr. Roelle, you have previously testified that during his first staff meeting in March 1993, you spoke to Mr. Roger Altman, then Acting CEO of the RTC, regarding Madison Guaranty's first criminal referral. Is that correct?

Mr. ROELLE. That's correct.

Senator MACK. Drawing your attention to the fall of 1993, it was your testimony that you informed Mr. Altman of the nine new criminal referrals of Madison matters on September 24, 1993. Is that correct?

Mr. ROELLE. I thought it was September 27, 1993. I'm not sure. But I did notify him, yes, sir.

Senator MACK. All right. I think that, as we go through this, it might shed some light on the dates.

Mr. ROELLE. OK.

Senator MACK. In this conversation, that I just referred to, was it your understanding that Mr. Altman then made reference to you speaking to Jean Hanson about the nine new referrals?

Mr. ROELLE. That's correct, sir.

Senator MACK. So then, you had a subsequent conversation to that with Ms. Hanson?

Mr. ROELLE. Yes, sir.

Senator MACK. Do you have any idea when that conversation took place?

Mr. ROELLE. The same day, sir.

Senator MACK. This conversation with Ms. Hanson took place on September 27, 1993?

Mr. ROELLE. I believe so, yes, sir.

Senator MACK. Can you reconstruct your first conversation with Ms. Hanson for us?

Mr. ROELLE. I think it would be instructive if I went over the whole conversation with Mr. Altman and Ms. Hanson, if that would be appropriate.

Senator MACK. Did this take place on September 27, 1993?

Mr. ROELLE. I believe they occurred on the same day, yes, sir.

Senator MACK. Are you going to describe the conversation with Roger Altman and then a subsequent conversation with Ms. Hanson?

Mr. ROELLE. Yes, I think that would put it in perspective.

Senator MACK. Fine. Go ahead.

Mr. ROELLE. I had been notified that we had some criminal referrals going forward. I had been notified on the previous evening.

I inquired of the person that notified me what the nature of the criminal referrals was. He indicated that these referrals were going forward and it was on the Madison situation.

He described them to me briefly. I said, "It sounds an awful lot like the previous criminal referral. Would you please check to see if it's not just the same one?" He said he would and would call me back the next day.

He called me back. I indicated to him, OK, thank you very much. I'll have to brief Mr. Altman. I advised him to neither look right nor left, up or down, to proceed forward with these criminal referrals and to do it just like we would do it.

Senator DODD. I'm sorry. Advised, who? I'm losing the names here.

Mr. ROELLE. The Vice President in Kansas City, who notified me that evening.

I advised him, don't do any more or any less than you would normally do in any criminal referral. At that point, I called Mr. Altman. I talked to him for maybe 6 minutes. He indicated to me he really didn't understand what I was expressing to him and that he would have Jean Hanson call me, and if I would go over it with her, he would appreciate it.

At which point he hung up and I believe a few hours later, although I'm not sure exactly when, Ms. Hanson called me and asked what was going on. I expressed to her that we had some more criminal referrals on the Madison issue.



I went over those criminal referrals very briefly, based on the information that I had been given orally over the telephone about what they were about. That conversation may have lasted 10 or 15 minutes.

Then we talked briefly about if it would be appropriate for those criminal referrals to be seen by anybody? I said, "In my judgment, it makes no difference if anybody sees them and, therefore, I don't think they should be seen because they were going to proceed normally."

I advised Ms. Hanson that I had told the staff in Kansas City to proceed normally with these criminal referrals. Go ahead and process them. She said, "OK. I will express that to Mr. Altman."

We talked briefly about—I had asked her, "Who do you intend to tell about this besides Mr. Altman?" She said, "Well, I hadn't really thought about anybody." And I said, "Good. I do not think it would be appropriate to discuss it with anybody."

I also, I believe, have testified to numerous different groups that I was never thinking of the White House when I made that statement. I was thinking about other officials at Treasury. We had a number of officials at Treasury always at meetings with the RTC, and I thought these things should be kept confidential, and the best way to do that was not to discuss them.

Senator MACK. Do you think that she understood your message about confidentiality?

Mr. ROELLE. I don't know. She never expressed it one way or the other. She said, "I will discuss this with Mr. Altman and we will get back to you if we need to."

Senator MACK. In the conversation, did you tell her that the referrals mentioned the Clintons and Governor Jim Guy Tucker?

Mr. ROELLE. I did indicate what each of the nine criminal referrals had reference to and I did mention that the President and First Lady had been mentioned in the criminal referrals.

Senator MACK. How about Governor Jim Guy Tucker?

Mr. ROELLE. I did say what—I'm not sure where I stand here, Mr. Chairman. I want to be totally responsive. But I'm not sure what I'm supposed to say about what's in these criminal referrals.

I will say that I told Ms. Hanson what each of the nine criminal referrals' basic charges were.

The CHAIRMAN. If you'll yield just a minute, just on the scope issue.

Senator MACK. Let me make a point here.

The CHAIRMAN. I don't want to go across this line, though.

Senator MACK. I'm not going to. What I think Mr. Roelle is saying is that he has real reservations, even today, about providing information that was included in those referrals. When we asked him for the cover page on those referrals, he refused to give it to us. Yet, that's information that the White House apparently has.

The CHAIRMAN. I think, if I may say—

Senator D'AMATO. Mr. Chairman, I think that the Senator is making a very important point. He's not going to try to cross the line.

What he is saying is that Mr. Roelle considers that information so confidential, so as not to compromise someone, that he doesn't think he can cross the line and reveal names, et cetera.

I think it is instructive, though, and Senator Mack has made the point, is attempting to make the point, that that same information was given—the information he cannot give this Committee today—to the White House. That's a very valid point.

Senator MOSELEY-BRAUN. Mr. Chairman?

The CHAIRMAN. Just a moment, please.

I understand the point you're making. I think, Mr. Roelle, you're correct, in your hesitation to not go into the details of the criminal referrals here today.

I think that's appropriate. That would violate our scope requirements. And so, just so we all understand the fact as to where that line is, you've stopped short of it and I think it's appropriate here that you do so.

Senator MOSELEY-BRAUN. Mr. Chairman?

Senator MACK. Mr. Chairman, I would like to make one last comment.

The CHAIRMAN. Please. Go ahead.

Senator MACK. Ms. Hanson had some very confidential information regarding the criminal referrals after she spoke to you, information which people involved in the case should not have access to.

Mr. ROELLE. Again, Senator, without trying to be an expert on the law or ethics regarding this matter, I believe that it would have been better had no one known about these criminal referrals.

Senator MACK. Thank you, Mr. Chairman.

The CHAIRMAN. What I want to try to do here is to go in the order of the Members. Then, if others want to get in, I'd ask you to ask Members to yield and they may or may not wish to do so. But I want to try to go back and forth to the Members.

I know you're seeking recognition right now. If there's a parliamentary issue, I'll recognize it. But I'd like to go ahead to Senator Shelby.

Senator MOSELEY-BRAUN. If Senator Shelby would yield for a moment. I just wanted to clear up—Mr. Roelle said something that, without clarification, I think can be misleading.

If the Senator would just yield for a single question of Mr. Roelle.

Senator SHELBY. Without losing any time.

#### OPENING COMMENTS OF SENATOR CAROL MOSELEY-BRAUN

Senator MOSELEY-BRAUN. Certainly. Mr. Roelle, when you said, when you discussed the referrals, you referred to the President and First Lady. You did not clarify whether you meant as witnesses in the referral or as targets of the referral.

I think it's important for the record that you make clear in which regard your reference was made.

Mr. ROELLE. I would prefer—I don't want to cross this line, Senator. I mentioned—I am willing to completely be forthcoming that the Clintons' names were mentioned. I think how they're mentioned would be getting into the details of the referrals.

I will seek your guidance. I will be totally forthcoming, if somebody will just tell me where they want me to be on this issue.

The CHAIRMAN. I'm not sure it's your job to answer that question. I think it's generally understood, from a host of information that's out in the public arena, that they were mentioned as witnesses,

which is not the other inference. So, I'm going to just leave that there for now.

Senator MOSELEY-BRAUN. I have no further questions.

The CHAIRMAN. I don't think Mr. Roelle ought to be the one asked to step across that line. I think your question was an appropriate one.

Senator Shelby.

#### OPENING COMMENTS OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Ryan, I believe you testified in your opening statement, basically saying that Mr. Altman wanted Madison treated the same as any other case. If that was true, was there a committee set up to deal with Madison/Whitewater?

Mr. RYAN. There was, yes, sir.

Senator SHELBY. Is this ordinarily done in the RTC?

Mr. RYAN. No, sir, it wasn't ordinarily done. It was set up because we were getting—the RTC was receiving a large number of informational requests from the Congress and from the press.

Senator SHELBY. From everybody?

Mr. RYAN. From everybody. We felt that we had to be consistent in the way we responded to those inquiries.

Senator SHELBY. In other words, basically, you thought this was an extraordinary case.

Mr. RYAN. It was an extraordinary case.

Senator SHELBY. Possibly involving some people at the White House.

Mr. RYAN. That's correct.

Senator SHELBY. OK. How did this committee come to be formed? Did you put it together?

Mr. RYAN. I put it together, yes, sir.

Senator SHELBY. And who was on the committee?

Mr. RYAN. Three members were on the committee. Mr. Collishaw from our legal division, Peter Knight, and Jim Dudine from our investigations unit.

The reason I'm hesitating in trying to recall the answers to those questions is that this committee remained in use for a very short period of time.

Senator SHELBY. How long did the committee last? A week? Ten days?

Mr. RYAN. Probably 2 or 3 weeks. When our General Counsel, Ellen Kulka, arrived on January 17, 1994, she formed a working group that assumed much of what this committee—

Senator SHELBY. Superseded the committee all together or assumed some of the responsibility?

Mr. RYAN. Assumed some of the responsibility and the rest was dealt with in our regular fashion.

Senator SHELBY. And what was that, regular fashion? It's a very good question.

Mr. RYAN. The disclosure of information and the like.

Senator SHELBY. Mr. Ryan, when did you first learn of the February 2, 1994, meeting between the White House and Mr. Altman?

Mr. RYAN. I learned about that meeting in the meetings the RTC staff held with Mr. Altman to help prepare him for the oversight hearings before this Committee.

Senator SHELBY. What was your reaction to that meeting when you learned about it?

Mr. RYAN. I was surprised that meeting had occurred.

Senator SHELBY. During your tenure of dealing with a regulation like this, have you ever known of any other disclosures like that?

Mr. RYAN. No, sir.

Senator SHELBY. Isn't it very important to the RTC to keep this kind of information very confidential within the RTC?

Mr. RYAN. I think it is, yes, sir. It is a responsibility of—

Senator SHELBY. And why is it important?

Mr. RYAN. It is important because information concerning such matters could compromise the RTC's ability to bring a case, if that is warranted.

Senator SHELBY. Is this especially true if people who might be targets of this investigation—

Mr. RYAN. Yes, sir.

Senator SHELBY. —knew what was going on on the inside of RTC?

Mr. RYAN. Yes, sir.

Senator SHELBY. Was that why you were surprised that this information had been disseminated to the White House?

Mr. RYAN. I'm not making a judgment as to—

Senator SHELBY. Just tell me what you thought at the time.

Mr. RYAN. I thought that it was a surprising revelation.

Senator SHELBY. And highly unusual, wasn't it?

Mr. RYAN. And highly unusual, yes, sir.

Senator SHELBY. This was confidential information, was it not?

Mr. RYAN. That's the problem, I think, Senator, the RTC does leak. I think someone said—

Senator SHELBY. Was it supposed to be confidential information?

Mr. RYAN. It was supposed to be confidential, and the RTC has a responsibility to keep that information confidential as well. The RTC breached that responsibility.

Senator SHELBY. Who breached it?

Mr. RYAN. I don't know.

Senator SHELBY. Have you done an internal investigation to see?

Mr. RYAN. Not yet.

Senator SHELBY. Were you aware, at any time, of a request made by Mr. Altman that the General Counsel of the RTC, Ms. Kulka, brief the President's private attorney on this?

Mr. RYAN. Was I aware?

Senator SHELBY. Yes.

Mr. RYAN. If she did.

Senator SHELBY. No. About the request.

Mr. RYAN. I was aware of the request, yes, sir.

Senator SHELBY. What was your reaction on learning about that request, that the General Counsel of RTC brief the President of the United States' private attorney—I believe it was Mr. Kendall.

Mr. RYAN. Yes, that's correct.

Senator SHELBY. What was your reaction?

Mr. RYAN. I was surprised at the request and discussed it with the General Counsel.

Senator SHELBY. Would asking the General Counsel of the RTC to brief a private attorney of a possible subject in a civil suit, or any other suit, be inconsistent with the regulations that you went by in running the RTC?

Mr. RYAN. I assumed all along that at some point in time, a meeting between our lawyer and Mr. Kendall would take place if an action was contemplated.

I thought it was premature, as Ms. Kulka has indicated.

Senator SHELBY. And highly unusual?

Mr. RYAN. Highly unusual.

Senator SHELBY. Mrs. Kulka, did Roger Altman or Jean Hanson ever ask you to brief David Kendall on the RTC's investigation of Madison/Whitewater?

Ms. KULKA. I received a call from Ms. Hanson where she told me that Roger Altman had requested that I call Mr. Kendall.

Senator SHELBY. Do you recall the date of this, briefly? Can you refer to your notes, or would you furnish it for the record?

Ms. KULKA. I believe that it was around February 3, 1994.

Senator SHELBY. OK. Go ahead.

Ms. KULKA. She asked me to advise him of the relationship between our potential asking for tolling agreements and the running of the statute of limitations on February 28, 1994, on the Madison matters.

Senator SHELBY. Did you brief David Kendall, the President's attorney?

Ms. KULKA. No.

Senator SHELBY. Why?

Ms. KULKA. I told Ms. Hanson that I didn't think this was the appropriate time to do it because we had formed no conclusions about who might eventually be asked to execute tolling agreements or who might be defendants.

Senator SHELBY. Absolutely.

Ms. KULKA. And that I thought, at the appropriate time, we would certainly enter into those discussions with attorneys for any possible defendants.

Senator SHELBY. What did Mrs. Hanson say to that?

Ms. KULKA. She said, fine, I'll tell Roger.

Senator SHELBY. That was the end of it? Did you have a conversation with Mr. Altman, Mr. Roger Altman, regarding this?

Ms. KULKA. I don't believe I did.

Senator SHELBY. Mr. Roelle, did you talk with Mr. Roger Altman about this same subject?

Mr. ROELLE. No, sir.

Senator SHELBY. Not at any time?

Mr. ROELLE. No, sir.

Senator SHELBY. Were you aware of this conversation you just heard related?

Mr. ROELLE. No, sir. I had left the RTC at the end of December and reported back to the FDIC.

Senator SHELBY. When you went over each of the nine criminal referrals with Mrs. Hanson, who was the General Counsel at Treasury, did you go over them in detail?

Mr. ROELLE. I went over about a sentence on each one. I had been given an oral set of general statements about each of the criminal referrals. It was followed up by a fax that I got later, I believe the same day, with a one-sentence explanation of each of the criminal referrals.

That is what I had been read over the telephone, and I briefed Ms. Hanson just on the basis of what I had been read over the telephone.

Senator SHELBY. Did you tell her this information was confidential and should not be shared, or was that understood?

Mr. ROELLE. I didn't use those words. I used the same words I previously stated.

I said that I do not believe it should be discussed with anyone, that it should be kept quiet, that this is not something—it is only for Mr. Altman and it is only an advisory to Mr. Altman.

I did not admonish, in any way, or say, don't talk to any specific person. It was a general statement that these should be kept quiet. They shouldn't be discussed.

Senator SHELBY. Thank you. My time is up.

The CHAIRMAN. Thank you.

Senator Faircloth.

#### OPENING COMMENTS OF SENATOR LAUCH FAIRCLOTH

Senator FAIRCLOTH. Thank you, Mr. Chairman.

Mr. Roelle, in September 1993, you were the Chief—

The CHAIRMAN. Senator Faircloth, we're not able to hear you. I don't know if that mike is working properly. Maybe you can just speak a little more loudly into it.

Senator FAIRCLOTH. How's that? Mr. Roelle, in September 1993, you were the Chief Financial Officer—

Senator D'AMATO. You might use another mike.

The CHAIRMAN. I'm not sure that one's working, Senator Faircloth. We'll get it checked in a minute.

Senator FAIRCLOTH. Mr. Roelle—can you hear me now?

The CHAIRMAN. Yes.

Senator FAIRCLOTH. In September 1993, you were the Chief Financial Officer of the RTC. According to the testimony you gave in your deposition, at that time you told Roger Altman and Jean Hanson about a criminal referral to the Justice Department that named the Clintons. A criminal referral is nonpublic information, isn't it?

Mr. ROELLE. That's correct.

Senator FAIRCLOTH. According to your testimony, you told Jean Hanson, and I quote: "We need to make sure these are kept confidential."

You also testified, you said, "My advice would be not to tell anyone and that these should be kept confidential, that it was only for Mr. Altman's knowledge and was not for any action to be taken."

So you believed that this was nonpublic information, and should be kept confidential.

Mr. ROELLE. Yes, sir.

Senator FAIRCLOTH. You testified in your deposition, that in September 1993, there had been no press inquiries about the criminal referrals that named the Clintons.

You also testified there was no indication that a press leak was imminent. Is that correct?

Mr. ROELLE. I didn't discuss the imminence of a press leak. I did say, in the course of that conversation that, in all likelihood, the press would get hold of this and it would be leaked because that was the nature of the RTC. But I knew of no leak.

Senator FAIRCLOTH. You knew of no imminent—you said, or testified there was no indication that a press leak was imminent.

Mr. ROELLE. That's correct.

Senator FAIRCLOTH. In September 1993, the time that you testified that no press inquiry had been made about the criminal referrals, and the time when you have testified that there was no indication that a press leak about them was imminent, there was a meeting where the RTC told this nonpublic information to White House officials.

Others have testified that the reason they did this was because of an impending press leak.

Does the RTC usually brief people named in criminal referrals if they think there's a chance that there may be a press leak? Is this normal procedure?

Mr. ROELLE. No, sir.

Senator FAIRCLOTH. Why did we do it this time?

Mr. ROELLE. I have no idea, sir.

Senator FAIRCLOTH. I'm still a little confused. There had been no press inquiry about this criminal referral that named the Clintons. And there was no evidence of a press leak.

By that standard, the RTC could tell anybody anything they want, so long as they say there is a possibility that there may be a press leak. Is that right?

Mr. ROELLE. No, sir.

Senator FAIRCLOTH. Has there ever been another case where the RTC gave an i.e., heads-up, in criminal referrals because they thought there might be a press leak?

Mr. ROELLE. No, sir, not that I'm aware of.

Senator FAIRCLOTH. This was an all-time first, to notify the Clintons?

Mr. ROELLE. Pardon me?

Senator FAIRCLOTH. This was an all-time first, to notify the White House?

Mr. ROELLE. As far as I know, yes, sir.

Senator FAIRCLOTH. Mr. Ryan, have you heard a report prepared by Mississippi attorney Stanley Huggins, known as either the Huggins report or the Garish report?

Mr. RYAN. I believe I've heard of that, yes.

Senator FAIRCLOTH. Do you know whether or not the RTC or the OTS has that report?

Mr. RYAN. I believe we do, yes.

Senator FAIRCLOTH. Has anyone from the White House or one of the President's personal attorneys contacted you about the report?

Mr. RYAN. No, sir.

Senator FAIRCLOTH. Has Robert Fiske contacted you about the report?

Mr. RYAN. I don't know. We provided a great deal of information to Mr. Fiske. I'm not sure whether that particular report was

among the information. I think it probably was, but I just don't know.

Senator FAIRCLOTH. Could you provide the Committee and us with a copy of that report?

Mr. RYAN. I think it goes beyond the scope and might compromise any particular action that the RTC might take.

Senator FAIRCLOTH. A report prepared by a Memphis attorney would go beyond the scope of what the Senate is looking at?

Mr. RYAN. I believe that report deals with the substantive matters that are under review by Mr. Fiske and by our office with respect to the possibility of bringing an actionable claim.

Senator FAIRCLOTH. Have you seen the editorial from this morning's Wall Street Journal, entitled, "Who is Jack Ryan?"?

Mr. RYAN. Yes, sir. I read it with a great deal of interest. I was curious myself.

[Laughter.]

Senator FAIRCLOTH. I thought it might be of interest to you.

[Laughter.]

Mr. Ryan, that editorial asks some good questions that I'd like to ask you now.

Mr. RYAN. Sure.

Senator FAIRCLOTH. First, April Briselow, an RTC attorney, said in a tape-recorded phone call to Jean Lewis, an RTC investigator who has been taken off the Madison Guaranty investigation, that you and Ms. Kulka would like to be able to say that Whitewater did not cause a loss to Madison.

Ms. Lewis responded that the Whitewater account alone might show losses in excess of \$100,000.

I appreciate the remark you made in your opening statement. You essentially said that, ultimately, you should be judged by what you do, not by what you say.

That's hard to argue with. But, specifically, did you ever say anything to anyone along the lines of you would like to be able to say that Whitewater did not cause a loss to Madison, that statement or anything close to it?

Mr. RYAN. Senator, I don't recall ever having said anything like that.

Senator FAIRCLOTH. Not even close to it? Never alluded to such a thing?

Mr. RYAN. Not that I recall.

Senator FAIRCLOTH. The editorial—do I have time for one more question?

The CHAIRMAN. If it's a follow-up to this and it will be brief. I mean, the light's on, but I don't want to cut you off if you want to finish a point.

I'm not going to do that to anybody.

Senator FAIRCLOTH. Mr. Ryan, the editorial alleges that you have provided the Minority staff of the House Banking Committee with documents regarding other thrift scandals. But you refused, even before Robert Fiske was named as Special Counsel, to give Representative Leach the same documents about Madison Guaranty.

Why would you treat Madison Guaranty documents differently than other thrift documents?



Mr. RYAN. I don't believe we have, Senator. It's my understanding that our position has been, and remains, consistent with respect to the provision of information to individual Congressmen.

We followed the position that an individual Congressman is entitled to information that is available under the Freedom of Information Act, unless it comes as part of a Committee request.

That has been our position. That is the position taken by other Government agencies and that's the position taken by the Department of Justice.

We are involved in litigation with the Congressman.

Senator FAIRCLOTH. You made no distinction between providing these documents on Madison and any other failed thrift? You gave out just as much information on Madison?

Mr. RYAN. We believe that we have been consistent. We are involved now in litigation with Congressman Leach over that very issue.

I would submit for the record a copy of our brief in that regard.

Senator FAIRCLOTH. The question is, you're negotiating with him now. But back when this first—before Fiske was appointed, did you give information on other failed savings and loans and withhold information on Madison?

Mr. RYAN. No, sir. We think we have been consistent in the provision of information. The other information given was in connection with a Committee inquiry.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

The CHAIRMAN. Why don't you go ahead and give us that brief you spoke about and we'll put it in the record.

Mr. RYAN. I will.

The CHAIRMAN. Just briefly, Senator Sarbanes. Then I want to go to Senator Kerry.

Senator SARBANES. You made the suggestion I was going to make, that the Committee should receive for the record the brief that Mr. Ryan and the RTC have filed in that case, which lays out their position as to why they believe they have been consistent in the providing of this information.

I think that would be very helpful.

The CHAIRMAN. Without objection, we'll make that a part of the record.

Senator Kerry.

#### **OPENING COMMENTS OF SENATOR JOHN F. KERRY**

Senator KERRY. Thank you very much, Mr. Chairman.

Mr. Chairman, in the 7 minutes that I have, I'm not going to be able to—nor can any of us go through in depth—lay out the full measure of what I want to try to establish here. But let me clarify a couple of points, if I can, quickly.

A number of colleagues have made a point about this information going to the White House being privileged information at that particular moment. In fact, Senator Faircloth just mentioned it.

Mr. Katsanos, isn't it a fact that at the very moment this discussion was taking place, Mr. Roelle sent a copy of an E-mail message that came from the RTC office, which actually had reporters' inquiries about the criminal referrals?

**STATEMENT OF STEPHEN J. KATSANOS, DIRECTOR OF THE  
OFFICE OF CORPORATE COMMUNICATIONS, RESOLUTION  
TRUST CORPORATION, WASHINGTON, DC**

Mr. KATSANOS. I'm not familiar with Mr. Roelle's E-mail.

Senator KERRY. There is—and we can get the documents. In fact, I'll find it, if you want, and we'll come back to you later on that. But there, in fact, is an E-mail message that came into your office. We have a copy of it, which is why I'm able to say this. It refers to the inquiry, and it's now a matter of record, that in the early bird publication 2 days later, there was reference to the criminal referrals.

So that's what prompted everybody's notion, uh oh, this is out in the press. Isn't that accurate?

Mr. ROELLE. Are you asking me, sir?

Senator KERRY. If you can answer it, fine.

Mr. ROELLE. The E-mail I think you are referring to was sent to me by Mr. Katsanos. It was forwarded, I believe. It was an E-mail that had been sent from our investigator in Kansas City.

Senator KERRY. All I'm trying to establish is that there was an E-mail. Correct?

Mr. ROELLE. Yes, sir.

Senator KERRY. And there was a reporter who's already inquiring about the criminal referrals?

Mr. ROELLE. Yes, sir, but that wasn't at the same time that I had briefed. It was after. But I don't remember exactly when.

Senator KERRY. Correct. This was on September 27, 1993.

Senator D'AMATO. The E-mail, I think, was on October 6, 1993.

Senator KERRY. The E-mail—September 30, 1993, was the date of the early bird, September 27, 1993, right around that time.

Mr. KATSANOS. If I recall the early bird you're referring to and the E-mail, the E-mail was in October and the September 30, 1993, early bird did not refer to that particular E-mail. It preceded it.

Senator KERRY. That's accurate. No, it just referred to the reporters' inquiries. That's all I'm saying.

Mr. KATSANOS. That's correct.

Senator KERRY. Right. That's all I'm trying to establish. It's in the public domain, is my point.

I'm not diminishing the fact that the information went. That is of serious concern. I want to make it very clear. There are two parts that I see here. One is of great concern to all of us on the Committee, and that is what Mr. Altman and Ms. Hanson did with information and what the impact was on you. I clearly want to pursue that line of questioning.

But, before I do, Senator Faircloth had an exchange with you suggesting that this is the first time ever that information has gone to the White House.

Let me ask you, Mr. Roelle, while you were Vice President at the RTC in 1992 and 1993, was there any other criminal referral besides the Madison that you were told about?

Mr. ROELLE. In 1992?

Senator KERRY. Correct.

Mr. ROELLE. Besides Madison?

Senator KERRY. That's correct.

Mr. ROELLE. No.

Senator KERRY. So this is the only referral that you were informed of in your capacity as Vice President. Correct?

Mr. ROELLE. In 1992, yes.

Senator KERRY. Correct. And there are hundreds of criminal referrals sent by the RTC to the Department of Justice, are there not?

Mr. ROELLE. That's correct, sir.

Senator KERRY. But only this one was singled out and told to you. Correct?

Mr. ROELLE. Yes, sir.

Senator KERRY. And this one happened to involve the Clintons in some respect, which we're not going into in great detail. Correct?

Mr. ROELLE. Yes, sir.

Senator KERRY. That happened while President Bush was still in office. Isn't that accurate?

Mr. ROELLE. That's right.

Senator KERRY. In fact, it was during the campaign, was it not?

Mr. ROELLE. Yes, sir.

Senator KERRY. So, even during the Bush Administration, this case was treated differently from other cases, was it not?

Mr. ROELLE. Yes, sir.

Senator KERRY. With respect to that, when did you first learn there was a criminal referral pertaining to Madison Guaranty at the RTC?

Mr. ROELLE. I believe it was in September 1992.

Senator KERRY. About 6 weeks before the election. Correct?

Mr. ROELLE. Approximately, yes, sir.

Senator KERRY. Who told you about this referral?

Mr. ROELLE. Mr. Dudeney.

Senator KERRY. Why did he tell you?

Mr. ROELLE. He came to me and said, "This is a criminal referral we're processing and I think you should know about it because it mentions the President, or a person that's running for the Presidency."

Senator KERRY. It mentions a Presidential candidate?

Mr. ROELLE. Right, Presidential candidate.

Senator KERRY. It does not mention the President. Correct?

Mr. ROELLE. That's correct.

Senator KERRY. Did you inform anybody else?

Mr. ROELLE. I did.

Senator KERRY. You informed Mr. Albert Casey. Correct?

Mr. ROELLE. That's correct.

Senator KERRY. Who is Mr. Albert Casey?

Mr. ROELLE. He was the CEO of the RTC.

Senator KERRY. He was the CEO of the RTC under President Bush?

Mr. ROELLE. That's correct.

Senator KERRY. Did Albert Casey tell you that he would tell someone about the criminal referral?

Mr. ROELLE. He said that he felt he needed to tell the oversight board.

Senator KERRY. Who sits on the oversight board?

Mr. ROELLE. The Secretary of the Treasury is the Chairman.

Senator KERRY. That would have been Mr. Nick Brady. Correct?

Mr. ROELLE. That's correct.

Senator KERRY. And who else?

Mr. ROELLE. The Chairman of the Federal Reserve Board. The Chairman of the FDIC.

Senator KERRY. Did President Bush's Counsel, C. Boyden Gray, sit on the board?

Mr. ROELLE. No, sir.

Senator KERRY. So there would have been no reason for him to have learned it by virtue of the referral of Albert Casey. Correct?

Mr. ROELLE. No, sir.

Senator KERRY. But did you learn later that C. Boyden Gray had learned something about the criminal referral?

Mr. ROELLE. Yes.

Senator KERRY. Would you describe what you learned?

Mr. ROELLE. Yes, sir. I don't know when it was in relation to when I briefed Mr. Casey, but I was later told by Mr. Casey that he had had a phone call from the White House asking about the criminal referral.

I indicated to Mr. Casey that it would be inappropriate to discuss it with the White House. Mr. Casey said, "OK. I'll tell him that."

We had a fairly long discussion about it. I told him that I thought the appropriate answer would be it is now in the hands of the Justice Department and it's not something that can be discussed.

As far as I know, Mr. Casey said he would express that view and I was told that he did express that view.

Senator KERRY. Did it disturb you that C. Boyden Gray, at the White House, had somehow learned of the criminal referral?

Mr. ROELLE. Yes, sir.

Senator KERRY. So your answer to Senator Faircloth was not, in fact, purely accurate. This is not the first time the White House has learned about it, is it?

Mr. ROELLE. No. I think it was accurate, sir. He asked me, "Is this the first time that the RTC had briefed the White House?"

And I said, "To my knowledge, it is the first time. We did not brief the White House."

Senator KERRY. But you had, in your discussion with Mr. Gray, you discussed—

Mr. ROELLE. I did not discuss anything with Mr. Gray.

Senator KERRY. I understand. But the discussion that took place was a discussion with respect to the appropriateness or inappropriateness of their learning more. Correct?

Mr. ROELLE. Absolutely.

Senator KERRY. OK. Now, obviously, my time is up. I want to develop this a little more.

Mr. Chairman, the reason this is important, we learned just a little bit later of the Republican U.S. Attorney in Little Rock who gets a criminal referral and who is under some pressure to rush the indictment process. There are letters that have been made public, and articles with respect to this, and I will come back to it. I want to come back, obviously, with a series of questions to the RTC and Mr. Altman.

The CHAIRMAN. Very good.

Senator Bennett.

# OPENING COMMENTS OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you. Can I find a mike that works somewhere? Is this now on? Oh, OK. Good. The gremlins have left us. This is now working.

Mr. Katsanos, you're the only one of this panel that has institutional memory. You go all the way back to the beginning of the RTC. Mr. Roelle has some, but he's gone, and you're the one that bridges the whole thing so if I may, I'm going to make you the star for a little while.

Mr. KATSANOS. Thank you, sir.

The CHAIRMAN. I'm going to have you speak a little louder, Senator Bennett. I'm not sure that microphone is working properly.

Senator BENNETT. This is as close as I can get without chewing it.

The CHAIRMAN. Yes, that's fine.

Senator BENNETT. Mr. Katsanos, I'm going to quote from your deposition. Let me make it clear, I am pursuing the issue of the independence of the RTC. That's what I talked about in my opening statement. My concern is that this Administration has tried to politicize the RTC and destroy its independence and that's the direction in which I'm going here.

You say in your deposition:

I was told to coordinate my activities with the Treasury Department press office and when Roger Altman was installed, the practice was to consult with them on significant stories. In some cases, they would give me instructions on what they felt I should say in response to press inquiries. They, in effect, viewed us as an arm of the Treasury Department.

Do you stand by that?

Mr. KATSANOS. Yes, I do, sir.

Senator BENNETT. You say on page 115—that was page 79 of your deposition—page 115, you say:

The final step was taken that really eliminated any concept of independence, and that was when they permitted the Treasury Department to assume direct control of the RTC.

*Question:* In your view, did that undermine the political independence of the RTC as it was intended to be constituted?

*Answer:* The RTC was certainly much more political, and there were activities undertaken that were of much more concern to the career staff than there had ever been before.

Is that still your position?

Mr. KATSANOS. Yes, sir.

Senator BENNETT. When you say "than there had ever been before," are you referring to the previous Administration?

Mr. KATSANOS. That's correct, sir.

Senator BENNETT. Thank you. You go on to say in your deposition "Neither Joan Logue-Kinder"—am I pronouncing that correctly?

Mr. KATSANOS. I believe so.

Senator BENNETT. "Neither Joan Logue-Kinder or Jean Hanson had any official position at the RTC; correct?" You answer:

That's correct.

*Question:* Their involvement came strictly through Treasury and somehow related to Mr. Altman's appointment as CEO?

*Answer:* That's correct.

*Question:* Was that on an official basis?

*Answer:* No, it was by virtue of they are staffing the CEO, the Interim CEO. She, in effect, was running the legal department.

**Question:** What period of time was Jean Hanson running the legal department at RTC?

**Answer:** It became her responsibility from the time that she started over at the Treasury Department.

Do you still have that view?

Mr. KATSANOS. Yes, sir.

Senator BENNETT. There have been references to Early Birds. Will you tell us what an Early Bird is, for the record?

Mr. KATSANOS. The Early Bird is a daily publication, a news bulletin in a sense, that my office puts together at the end of each day. It summarizes stories that we anticipate could appear the next day or the next week, sometime in the future.

Senator BENNETT. So, it's an internal publication that's for senior officials only.

Mr. KATSANOS. That is correct.

Senator BENNETT. Because of a call from Susan Schmidt of The Washington Post in late September or early October, I understand that the Early Bird publication noted that The Washington Post was interested in these matters. Do I have that basically correct?

Mr. KATSANOS. Essentially, sir.

Senator BENNETT. I understand that you were instructed by Joan Logue-Kinder to call Lisa Caputo at the White House in order to advise her that Susan Schmidt was interested in matters concerning Madison and Hillary Clinton. You believe that call occurred in late October. Is that correct?

Mr. KATSANOS. Yes, sir.

Senator BENNETT. In addition, you were told by Logue-Kinder that she did not want future editions of the Early Bird to mention Hillary Clinton, and that in mid-February, Howard Schloss of the Treasury also called you to direct you to, quoting from your deposition, "refrain from mentioning Roger Altman in any Early Bird items relating to Madison Guaranty." Is that correct?

Mr. KATSANOS. That is correct.

Senator BENNETT. You said in your deposition that you stood up to Mr. Schloss and told him you would not follow those instructions unless you were given them in writing signed by Mr. Altman. Is that correct?

Mr. KATSANOS. That is correct.

Senator BENNETT. You also indicated that you did, in fact, make the call to the White House as pressured by Joan Logue-Kinder because you were concerned about your job. You were afraid that there might be reprisals taken against you. Is that a correct interpretation?

Mr. KATSANOS. She was in a position that I felt could jeopardize my long-term employment safety.

Senator BENNETT. So, you did make the call to the White House even though you had great misgivings about it.

Mr. KATSANOS. I did make the call to the White House and I relayed simply the line of questions a reporter was pursuing.

Senator BENNETT. But, in the case of Mr. Logue—pardon me—Mr. Schloss, you told him you would not respond to his direction unless you had instructions in writing from Roger Altman?

Mr. KATSANOS. That is correct.

Senator BENNETT. Did you ever receive such instructions?

Mr. KATSANOS. No, I did not.

Senator BENNETT. Thank you. Now, going back to your testimony, which I recognize is your perception, that Jean Hanson was running the legal department in the RTC.

I would like to switch to Mr. Roelle for a moment. The law says that the General Counsel of the RTC shall be an employee of the FDIC. Is that correct?

Mr. ROELLE. I'm not sure, sir. I'll accept that.

Senator BENNETT. For the record, the citation that's given to me is 12 U.S. Code 1441A(b)(8)G that says, "The General Counsel of the RTC shall be an employee of the FDIC." Was Ms. Hanson ever an employee of the FDIC?

Mr. ROELLE. Not that I'm aware of.

Senator BENNETT. Would you like to comment on the perception that Ms. Hanson, in effect, was the General Counsel of the RTC during that period?

Mr. ROELLE. In effect, she had an awful lot to say about RTC policy regarding legal matters. There was a dichotomy at the RTC once the Treasury, through Mr. Altman's appointment, became active. We were allowed internally for things, case-specific in most every instance, to make our own decisions. Most of the policy decisions, however, were vetted through the Treasury people that attended our meetings.

Senator BENNETT. Thank you. I'll simply conclude, Mr. Chairman, with the same observation I made in my opening statement on Friday, which is that this Committee, prior to my arrival here, went to great lengths to ensure the independence of the RTC, even changing the law to make sure that the RTC would not, in fact, be an arm of the Treasury. I think what has come out of the depositions that we've taken and the testimony we've heard today is that this Administration has taken steps to move back in the other direction and turn the RTC into a politicized arm of the Treasury Department. Thank you.

The CHAIRMAN. Senator Bryan.

#### OPENING COMMENTS OF SENATOR RICHARD H. BRYAN

Senator BRYAN. Thank you very much, Mr. Chairman.

I, too, in my opening statement of last Friday raised some concerns about the structural relationship between the Treasury and the RTC and in my view, the untenable position that Mr. Altman was placed in, in effect wearing two hats.

In addition to Mr. Katsanos, Mr. Ryan, you made a comment in your opening statement to us, which indicates that there was certainly confusion in lines of authority, and the organizational structure in the RTC left something to be desired. I'm paraphrasing that.

Mr. RYAN. Yes, sir, that's correct.

Senator BRYAN. Mr. Roelle, you, too, have made comments with respect to the absence of the independence of the agency, saying something in your deposition to the effect that the RTC did not operate independently of Treasury. Everything we do was cleared by Treasury. You made that statement in your deposition.

Mr. ROELLE. I think I also said we were allowed to make internal decisions on our own in my deposition. I am not trying to be argumentative. I think that there was a dichotomy in the agency. It

was many of our decisions in terms of policy were—there were several people from Treasury that would be involved in policy decisions.

Senator BRYAN. Although, Ms. Kulka, you did not comment, from the reading of the record, the very fact that you get this phone call from Ms. Hanson asking you to brief David Kendall, which you declined to do, and I think appropriately—I think there's an indication of the relationships, or at least the perceptions, that may have existed, and I find that very troubling.

Ms. KULKA. May I comment on that?

Senator BRYAN. You certainly may.

Ms. KULKA. I did not have a relationship where Ms. Hanson, in her own right as an official at Treasury, asked me to do anything. She performed the service of liaison in terms of explaining to me what had been happening, from a legal perspective, and what Mr. Altman's interests were and how things happened. I had no circumstance I can point to where she ever asked or instructed me to do anything other than to be a liaison function.

Senator BRYAN. Did you understand that request from Ms. Hanson—first of all, let me ask you: Did, in fact, Ms. Hanson call you and ask you to brief Mr. Kendall?

Ms. KULKA. She conveyed the message that I described, that I call Mr. Kendall and explain something about the tolling potential and the statute of limitations time period.

Senator BRYAN. Was it your understanding she was being requested to do so by others?

Ms. KULKA. She clearly told me that someone had asked her.

Senator BRYAN. Mr. Altman?

Ms. KULKA. That's correct.

Senator BRYAN. My question is—Mr. Ryan, let me start with you. What do we need to structurally change, either by regulation or by statute, to protect that independent relationship that, clearly, those of us who had some experience in working on this sought to accomplish? Obviously, there is confusion in lines of communication and the line of authority here, but what do we need to do in your judgment?

Mr. RYAN. I think, first and foremost, Senator, you need to appoint a permanent CEO. I think everybody here would agree with that. That's probably what should have been done instead of asking Mr. Altman to serve in a dual capacity. I think he served in that capacity ostensibly during a time when consideration was being given to providing funding to finish the RTC's job of the S&L clean-up. There was a lot of concern in this Committee and other parts of the Congress about the way the RTC was being operated.

There were lots of improvements in the management structure that were required by the Completion Act and that Mr. Altman began to put in place. In that respect, he did a very good job in terms of trying to clean up some of the problems and deal with some of the issues that the Congress had raised in connection with their consideration of the funding, but I think it probably is a bad idea to let someone serve in that dual capacity. I think if we learned anything from this, it's that we shouldn't repeat that mistake.



Senator BRYAN. I happen to share that view, but my question is, without retrospectively analyzing Mr. Altman's conduct—there'll be a chance for us to ask him some questions about that—in your view, is the permanent appointment of the CEO, is that all we need to do to protect that independent relationship?

Mr. RYAN. I think so, Senator. As you know, the RTC is scheduled to go out of business by statute at the end of 1995. That's only 17 months from now so there's a lot of work that has to be done in terms of winding up the affairs of the RTC, transitioning back, with appropriate safeguards and control, any work that remains undone to our sister agency at the FDIC. That's what we've been busily doing these past few months, and it's an enormous project, as you might well be aware.

Senator BRYAN. Mr. Katsanos, do you agree?

Mr. KATSANOS. I agree with that. Roger Altman was put in a very difficult position. It was understandable he would rely on his staff at Treasury, who he works with on a daily basis, to assist him with RTC matters. However, with Ellen Kulka in as General Counsel now, really the second permanent General Counsel the RTC has had since 1989, we're moving ahead, and I think it is a lesson that we should learn from.

Senator BRYAN. Do we need to make other changes in the Act or enter regulations to ensure that independence is there in addition to having the permanent RTC Chair?

Mr. KATSANOS. I think the Congress went to great pains, in crafting the legislation setting up the RTC, to put in checks and balances. If you put a permanent CEO in place, that would go a long way, and the law, fundamentally, is one that works.

Senator BRYAN. Mr. Roelle, your thoughts.

Mr. ROELLE. I was hoping you wouldn't ask.

Senator BRYAN. You certainly had some very strong opinions on this—

Mr. ROELLE. Yes, sir. I think Roger—

Senator BRYAN. —prospectively.

Mr. ROELLE. I think Roger Altman was put in a very terrible situation and I don't think it's one he wanted to be in, or at least he expressed that to me at one time. So I have a tremendous amount of sympathy for the situation he was in.

However, with regard to the RTC, since I think this is the one chance I may have to express what I think needs to be done and, at the risk of offending people I don't intend to offend, I think that the RTC has been a political football since almost day one. It was conceived to take care of a problem that nobody enjoyed, both parties of our Congress.

I don't think anybody saw any benefit to the hundreds of billions of dollars that were going to have to be spent to clean up this mess. It was a very unpopular situation. I think it was structured in such a way that it was very difficult for the RTC to operate. We had an oversight board. We had a functioning agency. It was very difficult for those to coexist without some friction, and I think there was times that even this Committee experienced those situations.

I think, if I had it to do over again, it probably would have been better served to have left it with the FDIC, set the RTC up as a separate agency within the FDIC, and went ahead and done the job

under the supervision of the FDIC board of directors. I think I participated in trying to draft the FIRREA legislation. I spent, sometimes, 18 hours a day trying to work on this. It was very difficult to craft a solution that everybody would agree to, to get FIRREA written so we could get on with the cleaning up of the S&L crisis. It has turned out, in almost every situation, to be a bad situation in one way or the other.

Maybe if we could fix it, we could do away with the oversight board, make the agency an independent agency. I think it should be under a board where there are people overseeing the acts of the professional Government employees. I think it would have worked a lot better had we done that.

Senator BRYAN. Mr. Chairman, my time has expired and I thank you.

The CHAIRMAN. Thank you, Senator Bryan.

Senator Roth.

#### OPENING COMMENTS OF SENATOR WILLIAM V. ROTH, JR.

Senator ROTH. My questions will be directed at Mr. Ryan and Mr. Roelle. Mr. Ryan, in your deposition, you testified that the RTC maintains a policy of confidentiality regarding criminal referrals, and that this policy extends to not disclosing the fact of the referral itself unless it becomes so well known that it becomes a fact. Is that correct?

Mr. RYAN. That's correct, yes, sir.

Senator ROTH. Isn't it also true, Mr. Ryan, that criminal referrals are prevented from being disclosed by the Privacy Act of 1974 and may not be disclosed under the Freedom of Information Act?

Mr. RYAN. Yes, sir.

Senator ROTH. In a written response from the Committee following the February 24, 1994, hearing, the RTC—and I'm asking you this question, Mr. Roelle—the RTC stated it is the policy of RTC not to disclose criminal referrals or information about their preparation on an institution specific basis. Mr. Roelle, in your deposition, you stated that you were not aware of any exceptions to this policy. Is that correct?

Mr. ROELLE. I am not aware of any, yes, sir.

Senator ROTH. Mr. Roelle, in your deposition, you also testified that RTC's confidentiality policy regarding criminal referrals extended to press inquiries and was the same for every situation. Does that mean there is no exception for disclosing criminal referrals if there's a press inquiry, either actual or anticipated?

Mr. ROELLE. That's correct.

Senator ROTH. Mr. Roelle, do such things become nonconfidential public information simply upon having a reporter inquire or even publish an article about a confidential criminal referral?

Mr. ROELLE. It may become public as a result of what's in the press. It does not, in my judgment, allow me as an official of the RTC to discuss the matter.

Senator ROTH. Simply upon the inquiry or publication?

Mr. ROELLE. Yes, sir.

Senator ROTH. In its written response to questions following the February 24, 1994, Senate Banking Committee hearing, the RTC stated, and I quote:

The disclosure of any information concerning a criminal referral may serve to alert a suspect that an investigation may be pending, enable the suspect to conceal or destroy evidence, conceal or dissipate the proceeds of the crime fabricating evidence, or otherwise impede the investigation.

Mr. Roelle, are these legitimate concerns?

Mr. ROELLE. Yes, sir, they are legitimate. If you'll recall, since you have my testimony, there are two reasons that we don't discuss criminal referrals, and I think one has to do with obviously compromising the investigation. The other is that criminal referrals do not necessarily reflect somebody's guilt, nor are they always of substantial evidence to even require or cause the Justice Department to take any action.

If we were to leak, or if we were to publicly make available, criminal referrals, unfortunately—and in much of the debate I've heard about this, a criminal referral has come to be thought of as an indictment, and that's incorrect. A criminal referral is incorrect. It's our view that something criminal may have occurred at the institution when looking at it, but back to my point.

If we were to make those sorts of things public, we also do great disservice to people who are mentioned in those criminal referrals, whether they be witnesses, targets, or just people that are incidentally discussed. In addition to that, we would be violating their privacy.

There are many reasons why these referrals should not be discussed, and it's not just because you're going to compromise an investigation. It's because many of the things in those referrals turn out to be not accurate or not persuasive in terms of criminality, and it can have an awful impact on somebody's life if they're mentioned in the context of a criminal referral.

Senator ROTH. Isn't it fair to say that these same dangers or concerns could be raised as a result of these discussions at the White House?

Mr. ROELLE. I do not know what can occur or cannot occur from discussions at the White House, other than what I've been able to witness for the last several weeks. My view on this matter is that if you do not discuss them, then you do not have the problems that we're all talking about here today. It is wholly improper, and I don't mean that in any legal or ethical sense, but it is—because I can't be a judge of that—it is improper to discuss them for the reasons I've said, period.

Senator ROTH. The Office of Government Ethics sets standards of conduct regulations for all Executive Branch employees and defines "nonpublic information" to "include information that the employee knows or reasonably should know is designated as confidential by an agency, has not actually been disseminated to the general public, and is not authorized to be made available to the public on request."

So, Mr. Roelle, RTC criminal referrals do constitute nonpublic information under the Office of Government Ethics definition.

Mr. ROELLE. I would assume so, yes, sir, based on what you've just read to me.

Senator ROTH. And those same Office of Government Ethics standards of conduct regulations prohibit a Federal employee from improperly using "nonpublic information to further his own private

interest or that of another, whether through advice or recommendation or by knowing unauthorized disclosure.”

Mr. Roelle, isn't it correct, then, that this regulation prohibits an employee from disclosing nonpublic information that would further the private interest of another person, even if that person is in another agency of Government?

Mr. ROELLE. Based on what you've read to me, that would be the case, sir.

Senator ROTH. Did the Clintons have a private financial interest in Madison Guaranty, which was the subject of these referrals?

Mr. ROELLE. I can't get into what I know as a result of the criminal referrals, sir, one way or the other. And other than that, I don't know.

Senator ROTH. Let's assume that could be the case. Do you think it was proper for Mr. Altman—

The CHAIRMAN. Senator Roth, if you will permit me just to say that this falls on the scope screen in terms of, in effect, asking Mr. Roelle either to get into the substance of this, which he's reluctant to do and should not do, or to speculate about the substance of it, and I'm not sure he should be asked to do that. You may want to consider whether you really want to ask him to do that here.

Senator ROTH. I have no desire to exceed the scope of the inquiry. Let me ask, Mr. Ryan, are you familiar with Mr. Nussbaum's February 22, 1993, memorandum prohibiting White House staff contacts with independent agencies?

Mr. RYAN. No, I'm not.

Senator ROTH. Mr. Chairman, I'll reserve the balance of my time.

The CHAIRMAN. Thank you, Senator Roth.

Senator Boxer.

#### OPENING COMMENTS OF SENATOR BARBARA BOXER

Senator BOXER. Thank you very much, Mr. Chairman.

Ms. Kulka, you have a reputation as a very tough and independent litigator and many have told this Committee that in the depositions.

Did anyone at any time try to influence you in your job as General Counsel here, vis-à-vis, anything to do with Madison, White-water, or any of the areas this Committee is looking at?

Ms. KULKA. Other than the correspondence from various Congresspeople, the answer is no.

Senator BOXER. If I might pick up on that, you have received letters from various Congresspeople on this matter? What did they suggest in their letters to you?

Ms. KULKA. I think early on before I got there and continuing for the next several weeks, there were, first of all, requests for information that was part of our investigation and part of the criminal referrals, repeated requests and demands for that. There were also indications that it was the desire of those Congresspeople that we obtain tolling agreements from a wide variety of people.

Senator BOXER. Outside of Members of Congress, no one from the White House or the Treasury tried to influence your handling of this case?

Ms. KULKA. That's correct.

Senator BOXER. Mr. Ryan, in terms of people trying to influence you, did you ever brief anyone in the White House about this case?

Mr. RYAN. No, I didn't.

Senator BOXER. Did anyone in the White House ever ask you to be briefed about this case?

Mr. RYAN. No, Senator. I've never spoken to anyone in the White House.

Senator BOXER. How about anyone in the Treasury, outside of Mr. Altman, who wore the two hats, and Ms. Hanson, did anyone else try to influence you on this case?

Mr. RYAN. No.

Senator BOXER. Did you get asked by Senators or Members of Congress to brief them on this case?

Mr. RYAN. Not that I recall, no, I did not.

Senator BOXER. Did you ever go to any Senator's office or Congressperson's office to discuss either this case or the statute of limitations surrounding this case?

Mr. RYAN. I went to Senator D'Amato's office along with Peter Knight, our legislative liaison.

Senator BOXER. What was the purpose of that meeting?

Mr. RYAN. The purpose of that meeting was to discuss informational requests. We met with Senator D'Amato's staff and there was discussion about how we were going to respond to questions from Senator D'Amato regarding information. During the course of that meeting, there was a discussion about the statute of limitations with Counsel on the Senator's staff. We didn't get into the substance of the discussion because neither Peter Knight nor I are lawyers—it's my understanding that subsequent to that meeting, Mr. Knight arranged a telephone call in which there was a discussion with lawyers at the RTC and Senator D'Amato's Counsel regarding the statute of limitations.

Senator BOXER. So information on the statute of limitations on, as I understand it, January 24, 1994, was the meeting which you attended with Senator D'Amato's staff?

Mr. RYAN. I believe that's correct.

Senator BOXER. And follow-up conversations. That was prior to the information that was given to Mr. Nussbaum and others at the White House that Senators, or at least we know one Senator's staff, were briefed on the statute of limitations, and you were cooperative, as you should be, in giving all that information to him. Is that correct?

Mr. RYAN. The discussion dealt—my part of the discussion dealt primarily with the information that was going to be requested and how we were going to—

Senator BOXER. Can I ask you, was it typical for you to leave your office? What was your title at that time?

Mr. RYAN. I was the Deputy CEO.

Senator BOXER. Was that a usual and customary practice for you, personally, to go to the Hill and go to a Senator's office?

Mr. RYAN. No, it wasn't. I was specifically requested by Senator D'Amato's office to attend.

Senator BOXER. But no one had ever asked you at the White House to brief them on this matter?

Mr. RYAN. No.

Senator BOXER. Mr. Katsanos, I'm looking at this Early Bird here. What was the purpose—was this your idea, this Early Bird?

Mr. KATSANOS. Yes, Senator, it was.

Senator BOXER. What was the point of it?

Mr. KATSANOS. It was started very early on in the RTC's existence as a vehicle for communicating with our top managers about stories they should anticipate.

Senator BOXER. How many top managers are there in the RTC?

Mr. KATSANOS. Are you asking what the distribution was?

Senator BOXER. No, I'm asking you how many top managers there are in the RTC?

Mr. KATSANOS. I would say there's probably about six.

Senator BOXER. Six. So you found it necessary to communicate with six people and put out what I consider to be, basically, press leaks. I mean, here's one. The RTC's use of the law firm Holland & Hart in a suit against Deloitte and Touche for its involvement with Otero Savings & Loan, Colorado Springs, is being explored by Westward, a Denver newspaper. According to Deloitte's Counsel, Holland & Hart may have represented Otero Savings on transactions that caused losses to the institution.

That's signed by Felisa Neuringer. Who is Felisa Neuringer?

Mr. KATSANOS. Felisa Neuringer is a member of my staff.

Senator BOXER. So the purpose was to brief six people. Who got this Early Bird?

Mr. KATSANOS. The Early Bird was sent to approximately six managers at the RTC's Washington office. It also was sent to our field office heads, which at one time included 19 officials. It was sent, during the period Roger Altman was CEO, to his office at the Treasury Department. It was sent to the Treasury press office and it was also sent to the General Counsel at Treasury—all at their request.

Senator BOXER. And the purpose was to brief managers?

Mr. KATSANOS. The purpose was to alert them to stories that we anticipated could appear based on what the reporters were telling us they were working on. It was not a vehicle for announcing press leaks. It was intended to show what reporters were coming to us to discuss.

Senator BOXER. "The opposition of Jesse Jackson's Rainbow Coalition to Stanley Tate's nomination will be reported tomorrow in The Washington Post." What's the point of letting the managers know that?

Mr. KATSANOS. Senator, I'm sure there are many times when you would wake up in the morning and you would see a story which you wish you would have known the night before was going to appear.

Senator BOXER. I guess what I'm—

Mr. KATSANOS. It's nothing more.

Senator BOXER. I'm trying to understand why we spend taxpayer money on things people are going to read in the paper that I think take time away from the legitimate work of the RTC. You've got a lot of work to do, a lot of cases out there, a lot of money out there. I'd like to ask, if I have a little more time here, Mr. Ryan, you say in your deposition the Madison Guaranty investigation had been closed before and that the decision had been made sometime

back in 1990–91 that there wasn't a cost-effective case at Madison. That was when George Bush was President, was it not?

Mr. RYAN. I believe it was.

Senator BOXER. In your deposition you also refer to a closure memo on Madison Guaranty. Are you aware of the existence of a closure memo relating to Madison Guaranty?

Mr. RYAN. I am, but I'm not certain—yes, I am.

Senator BOXER. Isn't it true that from February 1989 to February 1992 the RTC had the ability to sue wrongdoers at Madison and isn't it also true the ability of the RTC to sue wrongdoers, which was dead as of February 1992, was revived by the RTC Completion Act signed into law by President Clinton in 1993?

Mr. RYAN. That's correct.

Senator BOXER. After the passage of this legislation, did you begin a review of all cases on which the statute expired or just those which would be considered cost-effective?

Mr. RYAN. Senator, we've tried to review as many cases that were reopened by the statute as our resources would allow us to review. Unfortunately—

Senator BOXER. That means cost-effective?

Mr. RYAN. Yes.

Senator BOXER. Mr. Chairman, I see my time has expired. I have a final sum-up question if I might.

The CHAIRMAN. If it's brief—

Senator BOXER. It is in this line. There was a decision made at the RTC under George Bush that there wasn't a cost-effective case at Madison but then the case was again being reviewed as of December 1993 when President Clinton was in office. Are you aware of anyone at the RTC who was ever pressured by anyone at the White House, White House staff, or Treasury staff not to begin a review specifically of the Madison case?

Mr. RYAN. No, Senator.

Senator BOXER. Thank you.

The CHAIRMAN. I just want to note for the record because it was developed in the testimony, and you made it—you indicated you don't normally come up here and talk with Members of the Congress, House, or Senate. Had there been other occasions? How many times have you done that?

Mr. RYAN. Since I've been with the RTC, none.

The CHAIRMAN. Senator Domenici.

Senator D'AMATO. Mr. Chairman, if I might—

Mr. RYAN. I'm sorry. I have made several courtesy calls when I was the Acting CEO, but I've never come up at the request of a Senator or his or her office.

The CHAIRMAN. It wasn't clear to me from your answer whether you had or had not and I wanted to pin that down.

Senator D'Amato, you wanted to—

Senator D'AMATO. Mr. Chairman, let me set a context and later, run on my time, I will spend a little more time developing it. We were trying to get information as it relates to when the statute of limitations would expire. We were attempting to find out if there would be a procedure to guarantee, if the statute of limitations were imminently going to expire, there would be a tolling agreement. In addition, I might say as it related to the meeting which

I did not attend, but which staff attended and also which the Chairman helped arrange, because we were getting no cooperation as to getting information. We were not trying to get information relating to the substance of the case. We have never asked for the substance of the case. I might say that I have a memo here, that I'll put into the file, to Ben Nye from Peter Knight. He accompanied you to that meeting.

Mr. RYAN. Yes.

Senator D'AMATO. He concluded by saying, "I would not characterize the meeting as a briefing on the status of the Madison civil investigation." That was written March 3, 1994. So it was not written at my request. It was an internal document. The fact of the matter is that, even at that meeting, we were not told when the statute would toll. Subsequently, I came to my colleagues, got eight or nine of them to sign a letter to ask for this information and what would take place, and we learned one thing via the phone call that was thereafter arranged.

Again, it was only because Senator Riegle said, come on, respond to the Congress, that we learned the statute might run out February 28, 1994, and there was another interpretation, it might be, I think, March 2 or 3, 1994. That's the only information we got in relation to when the statute of limitations might run out. We were told all other information could not be made available. A far different thing than the briefing that the White House received.

I've seen, now, in a number of statements, statements put out by Mr. Cutler, statements put out by others, that the Congress got this briefing, and the White House got the same. Absolutely nonsense.

Senator BOXER. Point of information—

Senator D'AMATO. Absolutely nonsense and I want that to go into the record. I think it's important. I'll ask, Mr. Chairman, that this letter be put in as part of the record.

The CHAIRMAN. Without objection. Senator Boxer, you're seeking recognition.

Senator BOXER. My point of information is, I was just going to say, that I had a line of questioning, and I asked it for a specific reason. I have no problem with Senator D'Amato putting his statement, but then to go on to say it's different than what occurred at the White House when there's some confusion on that, I think, is going beyond responding to my line of questioning.

Senator D'AMATO. There's no confusion by way of the depositions given by the people who gave the briefings and we'll get into that.

Senator BOXER. But we've had people here—

Senator D'AMATO. They did not give the briefings to the White House. Mr. Altman gave the briefings to the White House. Ms. Hanson testifies as to what took place. Ms. Kulka refused, she said no. When asked to speak to private counsel, she said no.

The CHAIRMAN. We can develop this further as we go along.

Senator Domenici.

#### OPENING COMMENTS OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Thank you very much, Mr. Chairman. I'm more than delighted to let that feud go on, if you'd like.



Mr. Chairman, first of all, I want to say to the witnesses, I appreciate the difficult position you all are in also. You expressed your concern, some of you, about the difficult position Roger Altman was put in but I'd like to explore that a little bit. I think, essentially, the fact that he was put in a difficult position did not mean that he could not have extricated himself from that difficult position at any number of times during his tenure in wearing two hats.

Let me start: Who was it that said Roger Altman wanted this case treated like all other cases?

Mr. RYAN. That was me.

Senator DOMENICI. Would you agree now that it was not?

Mr. RYAN. I would agree that it was not in certain respects; that's correct.

Senator DOMENICI. Is there any doubt in your mind that Roger Altman, in these various discussions and given what you know about the message he carried to the White House, was treating the case differently than other cases that you had talked with him about?

Mr. RYAN. I think that's correct.

Senator DOMENICI. What's going to happen is I don't believe we're going to be able to find out why, in this first round of hearings. But I believe there are many inferences that will come from this. This is the very narrow part of the investigation, and I have in the back of my mind—and I'm sure many people watching are wondering—why did all of this take place? What was the White House trying to do or not do in gathering up this unique information, much of which was totally confidential?

Now, having said that, let me ask, Mr. Ryan, as an experienced person in this field, would it be appropriate to tell the subject of an investigation that the investigation would not be completed before the statute of limitations expired?

Mr. RYAN. No, I don't believe so, sir.

Senator DOMENICI. What could the impact of that be?

Mr. RYAN. Obviously, the impact could have various effects on the investigation.

Senator DOMENICI. But, if there's a reason for not doing it, then there might very well be important ramifications that are prejudicial to one party or the other or people if that occurs. Is that right?

Mr. RYAN. I think that's correct.

Senator DOMENICI. Evidence could be, in certain instances, done away with. People could make it more difficult to gather the facts. People could be told about the situation and they could act accordingly. Isn't that correct?

Mr. RYAN. For all those reasons we keep these matters confidential, yes, sir.

Senator DOMENICI. When I think about this case and say, "What happened to this information," I know, more or less, which people were at all those meetings. But, just so everyone will understand what worries me, I wonder where this information ended up after it was delivered, principally by Roger Altman, to the big meeting on February 2, 1994, and the two meetings before that, one in September and one on October 14, 1993. I just want to read a list of

people in the White House that know what Roger Altman knows and know much about this confidential information. This is just an abbreviated list of who would know.

I give it to you because it seems to me, if you're concerned about keeping information from getting out, it should be important to us to know who had this information because the more who know, the more it goes. Here is Mack McLarty. He knew it. Counsel Nussbaum knew it. Harold Ickes knew it. Eggleston knew it. Beth Nolan knew it. Mr. Sloan knew it. Maggie Williams knew it. George Stephanopoulos knew it. Mr. Podesta knew it. Bruce Lindsey knew it.

Frankly, I think the issue becomes very important because none of us know where and to whom this information was passed, as confidentiality was breached, and delivered to the White House. Mr. Ryan, if Roger Altman was put in a difficult position, do you have any idea why he did not recuse himself?

Mr. RYAN. I only know what he has told me his reasons were. Senator DOMENICI. What did he tell you his reasons were?

Mr. RYAN. He told me that he had considered the matter very carefully and had drawn a parallel between his responsibility at the RTC with a CEO in the private sector. He said, if there was a matter of this magnitude with this kind of implication to a company, the CEO in a private sector would not recuse himself but would perform his responsibilities.

Senator DOMENICI. Does that lead you to think maybe he has some confusion, with reference to a private sector CEO and the acting head of the RTC, with confidentiality and the other kinds of impediments to that office?

Mr. RYAN. Sir, it leads me to conclude that, with all the advantages of hindsight and from political perspective, he would have been much better off had he recused himself.

Senator DOMENICI. Do you believe now, with everything you have heard and based upon your long relationship in these kinds of activities, that he should have recused himself? Is that what you just said?

Mr. RYAN. All I can say is, from a legal perspective and from an ethical perspective, I don't have the expertise to make that kind of a judgment. I'm not a lawyer. I'm not an ethics expert. I can simply say, from an appearance perspective and from a political perspective, he probably should have.

Senator DOMENICI. Mr. Roelle, there's going to be some discussion—it's already started today—about the reasons for the delivery of all of this information, some of which at least should not have been delivered. I think that's almost established *prima facie* here. There are going to be some allegations that it had to be done because of press information.

You were asked in your deposition:

Do you agree that one of the concerns underlying the confidentiality of criminal referrals is that premature disclosure could jeopardize the prosecution itself?

Your answer was, in my opinion, a very excellent answer and the reason I'm reading this. It says:

If we turn out to be wrong, then it destroys the person if it becomes public information. If we are right, then it destroys the case or it potentially could destroy the case. So either way—either way, there is a reason that you should never discuss them. Many of our referrals are rejected. I mean, not all of them are processed.

Does that summarize your concern about the value of keeping these things confidential?

Mr. RYAN. Yes, sir.

Senator DOMENICI. From what you have heard now, have things been divulged to the White House that should not have been divulged, that are confidential based upon the way you operate and what you think about the responsibility of someone in Mr. Altman's position?

Mr. ROELLE. I'm glad you made it the way I operate. I cannot speak to what is proper in terms of the law or in terms of these investigations. As far as I am concerned and in my opinion, these criminal referrals should not have been discussed.

Senator DOMENICI. Might I ask one last question, Counselor Kulka? I'm just going to read as succinctly as I can what Harold Ickes said while being deposed under oath. He was asked by Mr. Bennett, one of the counsels, to recall the subject and what was discussed and he said, "Go ahead." Mr. Bennett said, "Guess, do your best." And in the second paragraph of the answer he says this: "The purpose of this meeting . . ."—the February 2, 1994, meeting which you helped brief him on, to get him ready for that meeting, as I understand it, did you not?

Ms. KULKA. I didn't brief Mr. Ickes on anything, sir.

Senator DOMENICI. No, you helped brief Altman.

Ms. KULKA. I may have had a meeting with Mr. Altman before that date.

Senator DOMENICI. But look, he says this: "The purpose of this meeting and the focus of this discussion was the amount of time in which he felt this investigation might be wrapped up," and said, at least in so many words, that it "was his understanding that the investigation probably would not be concluded, that a determination could not be made by the RTC's General Counsel as to whether there was a basis for a civil claim until the expiration of the statute of limitations, as applied to that particular investigation."

From what I gather here, Harold Ickes is saying that Mr. Altman said that. I believe Jean Hanson says that. Are you telling us that you did not tell him, Mr. Altman, that you did not have a case ready to go by statute of limitations time?

Ms. KULKA. No, I never said we would not have a case ready to go, and I said, and I think anybody who brings a case on behalf of a plaintiff, whether it's a criminal case or a civil case, knows that the more time you have, the better the job often is that you can do. Furthermore, the bringing of a complaint, the filing of a civilian—a civil complaint does not terminate the discovery period. In other circumstances, it merely commences it. Everybody knows that you don't have to have all of your information in place when you bring the complaint.

You can continue your discovery, and we would have continued our discovery if it was deemed to be necessary. That much I told Mr. Altman. Also, I clearly told Mr. Altman that we would put ourselves in a position, to the best we could, where we would be able to file complaints as long as we were not violating Rule 11 and filing bad faith complaints which were not based on fact or that were frivolous. If we couldn't do that, we wouldn't be able to make a recommendation. But, if we could do that, we thought we could make

a recommendation which might mean those complaints might get amended as further information came down, or it would just be put in through the process of the civil litigation.

Senator DOMENICI. Obviously, Mr. Altman will have his chance to explain it. I thank the Chair and thank the witnesses.

The CHAIRMAN. Senator Murray.

#### OPENING COMMENTS OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman.

I would like to follow up on what Senator Boxer brought up because I am confused. Mr. Ryan, you answered her question saying that you spoke to a Senator or Senate staff about the issue of the statute of limitations.

Mr. RYAN. I was present at a meeting in which the questions about when the statute of limitations expired were raised.

Senator MURRAY. Was that prior to the February 2, 1994, White House meeting?

Mr. RYAN. I believe so. Let me see—January 24, 1994.

Senator MURRAY. January 24, 1994. So, that was prior to Roger Altman's meeting with the White House staff on February 2, 1994?

Mr. RYAN. That's correct.

Senator MURRAY. Are you aware that RTC lawyers spoke by telephone with lawyers of Senator D'Amato's staff later that week?

Mr. RYAN. That's my understanding.

Senator MURRAY. Can you tell us what was discussed in that phone conversation?

Mr. RYAN. I can't. I'm merely aware that conversation took place.

Senator MURRAY. But, from what you were saying to me, members of the Senator's staff knew the information about the statute of limitations and, indeed, as we all know here, confidentiality doesn't last very long. It could have been that the White House found out that information from the Senate before Roger Altman ever talked to them. Is that correct? A possibility?

Mr. RYAN. I don't have any idea.

Senator MURRAY. It is a possibility since that information was out there. The other discussion item that really had me concerned was leaks. I am one of those people who believes that the public should have all information. That is part of our responsibility. However, leaks cause consternation. You said the RTC is an information sieve. I believe that's what you said.

Mr. RYAN. I did.

Senator MURRAY. Do you think that leaks to the press might actually work to hinder investigations?

Mr. RYAN. Yes, I do, Senator. I've thought a lot about this. The responsibility for maintaining the confidentiality of that information, of any information, investigative or otherwise, that could damage a case that the RTC is bringing, is a responsibility first and foremost of the RTC itself. We haven't been very good about keeping those matters confidential. It's almost a certainty that any matter that has any kind of public interest at all is leaked to the press prematurely.

Senator MURRAY. So, it could indeed damage a case that you have in front of you?

Mr. RYAN. It could, and we're quite concerned about it. I think partly it's the nature of the RTC. We have 6,500 employees, many of whom are going to be out of a job come the end of next year when the RTC goes out of business. There's not much of an incentive for institutional loyalty. There's not much concern by the employees of RTC about doing something that might affect their employment there, and we've had a lot of premature leaks of very sensitive information.

Senator MURRAY. What are your plans to deal with that?

Mr. RYAN. We've tried to impress upon the staff the need to preserve that confidentiality. We've tried to deal with their anxieties about what's going to happen with their employment.

Senator MURRAY. Are you going to continue to print the RTC Early Bird?

Mr. RYAN. Um——

The CHAIRMAN. Let me offer an opinion. I sure hope you don't, just as one observer. I think, if there is one thing that's clear now, that document has outlived its usefulness, but excuse me, Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman. I would like to ask Mr. Katsanos a question at this point.

Senator BOXER. Did you get an answer to your question?

Senator MURRAY. Mr. Ryan, first, could you tell me if you're going to continue to have the Early Bird printed?

Mr. RYAN. I hadn't considered terminating it, but we'll certainly consider it.

Senator MURRAY. Mr. Katsanos, in terms of this Early Bird, are you aware that it's also known as the leak sheet?

Mr. KATSANOS. No, Senator, I wasn't, but I'd like to point something out regarding the Early Bird. Nothing goes into this publication that is not relayed to us by reporters. We don't state what the agency's position is or what the agency's responses to the reporters are. The reporters are coming to us first, based on someone they've talked to, frequently someone sitting in the back aisle in this room. They're coming to us with the story, and they're asking for our reaction. What we're telling our managers is here's what the reporters have and what we expect could appear.

Senator MURRAY. I'm not sure how many employees you have in the RTC who actually see this, but I assume once it gets put on a piece of paper, it gets disseminated to a lot of people. I can imagine what I'd think if I were an employee in your office, and I received this and saw something that says:

The Rose Law Firm's alleged undisclosed conflicts of interest and internal RTC sources' suggestions that multiple referrals to the Justice Department link the firm's numbers, friends, and loans to insolvent S&L's are being pursued by The Washington Post and the Associated Press.

If this comes into some employee's hands who may not be a higher-up, it's pretty much public information, wouldn't you say?

Mr. KATSANOS. I would have to agree with that, Senator, and that's why each recipient of this publication has been urged to treat it as a confidential document, not as a public document. I would also point out, Senator, that——

Senator BOXER. Would the Senator yield briefly to me at this point? Why doesn't it say "confidential"?

Mr. KATSANOS. I don't know that a stamp mark "confidential" would make any difference, Senator.

Senator BOXER. I disagree with you completely. Sorry, Senator.

Senator MURRAY. I will say that the message I just read is dated September 30, which, I believe, is the day after Jean Hanson went to the White House. I guess I have one other question—

Mr. KATSANOS. Senator, I recall, in the documents your staff showed me, I did see a Jean Hanson memo with an Early Bird attached that I was told she forwarded to the White House. As I was about to say a moment ago, I had never been aware of this publication making it outside of the RTC until we began distributing it to the Treasury Department.

Senator MURRAY. I have one other question, Mr. Chairman.

Mr. Katsanos, it's for you. In your opinion, how did The New York Times receive information about criminal referrals regarding Madison?

Mr. KATSANOS. I have no idea. I would have to concur with my colleagues here, and I'd have to reflect that when I was a reporter, I would have loved to have had the job of covering the RTC. It is, because of the staff here, because of the people within the RTC, one of the easiest agencies to cover. One reporter once referred to it as not a very challenging agency. It's like shooting dead fish floating in a barrel of water. It's an exceptionally easy agency to cover.

Senator MURRAY. Because you can get information quite easily?

Mr. KATSANOS. You can get information from RTC staff and from RTC contractors. You can get information from congressional staff, and that's not unique to the RTC. It's just that since it is such a visible organization with such a controversial job with so many different players involved, it's a simple job as far as a reporter is concerned.

Senator MURRAY. I will go back one more time, Mr. Ryan. You did say that leaks can really be a problem in terms of fraud and abuse?

Mr. RYAN. Yes, they can.

Senator MURRAY. Thank you.

The CHAIRMAN. We're going to excuse Mr. Ryan just for a moment.

Senator Hatch.

#### OPENING COMMENTS OF SENATOR ORRIN G. HATCH

Senator HATCH. Thank you, Mr. Chairman.

Ms. Kulka, prior to your employment at the RTC you worked for the Office of Thrift Supervision. Is that right?

Ms. KULKA. That's correct.

Senator HATCH. While you were at OTS you were involved in the Kaye, Scholer settlement. Right?

Ms. KULKA. That's correct.

Senator HATCH. Working on the Kaye, Scholer settlement at OTS, you had dealings with Bernie Nussbaum and his law firm because they were representing Kaye, Scholer. Is that correct?

Ms. KULKA. I never met Mr. Nussbaum in that context. I had dealings with other of his partners, that's correct.

Senator HATCH. But you did work with his law firm. Given your negotiations with Kaye, Scholer in that case, is it your opinion that

Mr. Nussbaum may have developed a view that you were tough or aggressive?

Ms. KULKA. I try to review back how I handled the negotiations on the financial aspects of that settlement, sir, on the note that represented the payments——

Senator HATCH. I'm not criticizing you.

Ms. KULKA. —and I behaved in that case as I do in any other. I really don't know what someone would characterize.

Senator HATCH. In your deposition, when you were basically asked that question, you said I hope so because that's your job. Right?

Ms. KULKA. Yes, sir.

Senator HATCH. You said you were "pretty tough" in negotiations. I commend you for it. I don't have any problem with that. I think you also characterize yourself as assertive.

Ms. KULKA. Yes, sir.

Senator HATCH. When you were hired as General Counsel of the RTC, that was in January 1994, I believe. Is that right?

Ms. KULKA. That's correct.

Senator HATCH. When you were hired by the RTC, you were interviewed by the Treasury people as well. Is that right?

Ms. KULKA. That's correct.

Senator HATCH. Mr. Nussbaum never interviewed you?

Ms. KULKA. No.

Senator HATCH. As General Counsel you were in charge of all the legal work at the RTC overseeing what, about 500 attorneys or lawyers?

Ms. KULKA. Yes, I think that's correct, sir.

Senator HATCH. You mentioned there came a time in January 1994, when the RTC needed to hire an outside counsel to assist in the investigation of Madison. Right?

Ms. KULKA. That's correct.

Senator HATCH. The RTC, based on the recommendations of the Senior Counsel and Assistant General Counsel, decided to hire the firm of Pillsbury, Madison, and Sutro.

Ms. KULKA. Yes, sir.

Senator HATCH. Is it not true that you were informed that Jay Stephens was one of the two partners from Pillsbury, Madison who might head up the investigation?

Ms. KULKA. That's correct.

Senator HATCH. You were made aware that Jay Stephens was a former U.S. Attorney in the District here.

Ms. KULKA. That's correct.

Senator HATCH. You discussed the necessary requirements and decided that a former U.S. Attorney should be hired.

Ms. KULKA. There were aspects of the case that made that helpful.

Senator HATCH. Right. After your own questioning of the Senior Counsel and Assistant Counsel, the RTC selected Mr. Stephens sometime toward the end of January. Is that right?

Ms. KULKA. Mr. Stephens' firm, sir, yes.

Senator HATCH. His firm but, in essence, he became one of the counsel.

Ms. KULKA. That's correct.

Senator HATCH. Is it accurate to say when outside counsel is hired, the counsel reports to the RTC and the RTC retains final authority over decisions the outside counsel makes on whether to proceed with litigation in any particular case?

Ms. KULKA. Absolutely.

Senator HATCH. That's my understanding, and is that the relationship that the RTC entered with Mr. Stephens?

Ms. KULKA. Yes, sir.

Senator HATCH. Is the RTC's hiring of outside counsel made public?

Ms. KULKA. It depends on the circumstances.

Senator HATCH. With regard to Fiske and civil jurisdiction—when you say “it depends on the circumstances,” what does that mean?

Ms. KULKA. It depends on whether making anyone aware of the fact that we've hired counsel can affect our strategy in our litigation.

Senator HATCH. So, you might withhold that—

Ms. KULKA. You might withhold it or you might publish it.

Senator HATCH. Most of the time it's published, OK. To the Fiske civil jurisdiction, do you recall, shortly after having hired Mr. Stephens, having learned of the Independent Counsel's charter and its arguable grant of civil jurisdiction?

Ms. KULKA. I actually think I may have been aware of that before the firm was retained.

Senator HATCH. Is it true you had discussions with Mr. Fiske concerning the scope of the Independent Counselship?

Ms. KULKA. I think they were more casual than that.

Senator HATCH. But, nevertheless, discussions.

Ms. KULKA. Tangentially.

Senator HATCH. Do you recall having a telephone conversation with Ms. Hanson on Saturday, February 5, 1994?

Ms. KULKA. I don't recall the date of any specific conversations, sir.

Senator HATCH. But you did have a conversation with her at or near that time?

Ms. KULKA. That's quite likely.

Senator HATCH. According to Ms. Hanson's deposition, she telephoned you at home on Saturday, February 5, 1994. Outside of the actual date, do you remember her calling you at home?

Ms. KULKA. I remember her calling me at home.

Senator HATCH. Do you recall that conversation?

Ms. KULKA. I don't know if I can identify the contents of the conversation with the place, sir, but if you tell what—I'll be happy to tell you whether I know the substance of what you would like to hear about it.

Senator HATCH. Let's go to that and see what we can do here. During this conversation, you and Ms. Hanson discussed the Special Counsel's charter, and whether the charter's reference to giving Mr. Fiske civil jurisdiction could be read to cover the RTC's civil investigation. Do you remember that?

Ms. KULKA. Yes.



Senator HATCH. Is it not true that during the discussion or conversation you discussed an earlier discussion you had with Special Counsel Fiske?

Ms. KULKA. I discussed a reference in that context.

Senator HATCH. The conversation you had with Fiske concerned the scope of his investigation and whether or not he was interested in pursuing the RTC civil litigation. Is that right?

Ms. KULKA. Not quite, sir. If I may, I would be happy to tell you—I made contact with Mr. Fiske shortly after he was appointed, to express our desire to cooperate and coordinate. We were discussing the timetable in which the RTC was operating under with the February 28, 1994, statute of limitations. He said, "I would not like to be in your position at this moment." From that, I took it that he was rather glad that he did not have our aspect of the litigation.

Senator HATCH. If you recall, isn't it true, you then informed Ms. Hanson that it was your impression from your discussion or your casual conversation with Mr. Fiske that he did not intend to pursue RTC civil matters?

Ms. KULKA. No, sir, if I might give you the context of that conversation. Ms. Hanson asked me if it might be more effective and maybe easier for the RTC to function if Mr. Fiske did take that over, if he was likely to do it, and if he could do it. I think I told her it was a little more complicated because, although Mr. Fiske had clearly been given civil as well as criminal jurisdiction, he only had that which Ms. Reno could delegate to him. In our case, we had independent litigating authority at our agency, and we could use the Justice Department, therefore, Ms. Reno could delegate what we had assigned to them or we could litigate it ourselves. But, I didn't think that, based on my understanding without doing research, he had more than Ms. Reno could assign, and we had the initial choice of how our litigation was handled.

Senator HATCH. Ms. Hanson asked you to let Mr. Fiske take over the case?

Ms. KULKA. No, she just asked me what I thought about it and that's what I told her. I told her I didn't know if he would be enthusiastic about it based on the comment I've described to you.

Senator HATCH. Was it your view that this information you discussed with her was confidential?

Ms. KULKA. I didn't have any view. I didn't make any assumption about it.

Senator HATCH. Ms. Hanson informed you that she had been called by Mr. Nussbaum, and that her call was being made pursuant to instructions from Mr. Altman?

Ms. KULKA. With respect to that issue?

Senator HATCH. That's correct.

Ms. KULKA. No.

Senator HATCH. February 5, the date Ms. Hanson believes this conversation occurred, was only 2 days after Ms. Hanson had inquired about you providing a private briefing to the Clintons' attorney, Mr. Kendall. Is that right?

Ms. KULKA. I don't know if it was a briefing, sir, but she asked me to contact him, yes.

Senator HATCH. Is it common for the RTC to discuss with someone outside the RTC the jurisdictional deliberations it is having with the Department of Justice as they relate to a specific case?

Ms. KULKA. I don't know what is common, sir. I only know what I've done since I've been there and I haven't had the occasion to do that.

The CHAIRMAN. The question is would you do that? You turned down that request, did you not?

Ms. KULKA. Yes, but I didn't turn it down because I thought there was anything startling, sir, because at some point we would be contacting attorneys—

The CHAIRMAN. Why did you turn it down?

Ms. KULKA. I thought we hadn't focused on any particular individual. It would be rash to do it. It would have an inappropriate appearance to either make people assume, if they became aware that the Clintons were going to be defendants, that that was the likelihood or that, in fact, we were popping the question earlier than we should and therefore doing something we would not do in the ordinary course. For those various reasons, I thought it was unwise to do that.

Senator DODD. Mr. Chairman, just on that point, it's not uncommon for private attorneys to be in touch with the RTC?

Ms. KULKA. Absolutely, sir. It's perfectly common along the process as you develop your information. You're getting information from various people. You're talking to them about it, and those are consistent with your role in terms of representative—

The CHAIRMAN. Let's not confuse these things. There's a question as to whether they call you or you call them.

Ms. KULKA. It could be either, sir.

The CHAIRMAN. I know. But the question is who initiates it?

Ms. KULKA. It depends on the circumstance. I couldn't—it could be appropriate in either case, depending on the—

The CHAIRMAN. If you felt that—you've just testified—let's not skate all over the place here. You've just testified in this instance—your time had expired.

Senator DOMENICI. Now it's expired. Could I finish with my line of questioning, sir?

The CHAIRMAN. You didn't think it was something you should do and that's why you decided not to do it?

Ms. KULKA. That's correct.

Senator DODD. It was a question of timing?

Ms. KULKA. That's absolutely right.

Senator DODD. Not as to the appropriateness of it, whether or not there was a contact, just the timing of the contact?

Ms. KULKA. It was the timing and what I thought the inferences were that didn't need to be drawn.

Senator HATCH. Mr. Chairman—

The CHAIRMAN. Very briefly, and then I have to yield to Senator Sarbanes.

Senator HATCH. I just have these final few questions in this line of questioning that I think might shed some light on it, if I could.

Jumping ahead a bit, the Banking Committee deposed Ms. Hanson and in her deposition, Ms. Hanson testified sometime around

February 24 or 25, 1994, she contacted you to "inquire" as to how Mr. Stephens had been hired. Do you recall that conversation?

Ms. KULKA. I don't have a specific recollection of it, sir.

Senator HATCH. Could I just ask two questions of Mr. Ryan and then—

The CHAIRMAN. I don't want to say no to you, Senator Hatch, but we're over the time period.

Senator HATCH. It will only take a second.

The CHAIRMAN. If it's a follow-up to this and it's only a minute or so I'd be happy to oblige because I don't want to be arbitrary to any Senator.

Senator HATCH. Mr. Ryan, in response to an earlier question, you stated that you do not recall informing anyone at the RTC that you would prefer to be able to say that Whitewater did not cause a loss to Madison. Just to be clear, do you deny ever having made such a statement?

Mr. RYAN. I don't recall ever having made that statement.

Senator HATCH. You don't deny it then?

Mr. RYAN. I don't remember ever having made that statement.

Senator HATCH. Is it possible you could have made that statement?

Mr. RYAN. I don't know.

Senator HATCH. Thanks, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Sarbanes.

#### OPENING COMMENTS OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman.

First of all, Ms. Kulka, I want to be clear on this last point that was being discussed with Senators Hatch, Riegle, and Dodd. The RTC does have conversations with the attorneys for private parties that are involved in matters that you're examining, does it not?

Ms. KULKA. Yes, sir.

Senator SARBANES. That's an ordinary occurrence, I would assume?

Ms. KULKA. Yes, sir.

Senator SARBANES. In fact, some reference was made to getting tolling agreements, and I don't see how you could get a tolling agreement if you didn't discuss it with the attorney for the private party from whom you were trying to get the agreement. Wouldn't that be the case?

Ms. KULKA. That's correct.

Senator SARBANES. So, you and Mr. Ryan, in this instance when you said you didn't think such a conversation should take place, it wasn't because you have a general position that such conversations ought not to occur, but it was because you thought the timing of this was premature, I think, was the word you used, Mr. Ryan. Is that correct?

Mr. RYAN. That's correct.

Senator SARBANES. I want to ask you, let me first try to get these so-called criminal referrals into perspective. I take it the RTC refers matters to the Justice Department for possible criminal action and I think, Mr. Roelle, you said in those instances where criminal activity may have occurred. Is that correct?

Mr. ROELLE. Yes, sir.

Senator SARBANES. I gather the standard for a referral is lower than even probable cause. Would that be correct?

Mr. ROELLE. Yes, sir.

Senator SARBANES. In how many cases in which the RTC makes such a referral to the Justice Department for possible action, does the Justice Department end up, in fact, bringing an indictment in a criminal case? Do you have any idea, just a rough percentage?

Mr. ROELLE. A rough percentage, I would think, would probably be less than 10 percent, perhaps even less than 5 percent.

Senator SARBANES. Less than 5 percent. So there's—in other words, there are a great many referrals that are made, but a relatively few number of cases on which the Department of Justice then proceeds. Is that correct?

Mr. ROELLE. That's correct, sir.

Senator SARBANES. I guess I want to ask Mr. Ryan and Ms. Kulka this question. Of course, we're looking very carefully into these discussions and contacts that took place, and we'll be examining other witnesses that will come before us this week with respect to those matters.

I'm interested to know from you, though, as the Acting Director of the RTC and the General Counsel, if any of the referrals involving Madison are in a different posture today than they would have been had none of these discussions taken place or—I mean, you had these discussions going on, but had these cases moved, in effect, on a straight track and today they're more or less where they would have been in any case?

Ms. KULKA. With respect to the criminal referrals, they were made before we came. They're in the hands of the Special Prosecutor and we have no relationship to them. Our understanding is that they're in the posture they would normally be in if the Justice were considering them. With respect to our own investigation, I think we're on an accelerated path far greater than we might be in other circumstances. We are devoting a significant amount of resources and attention to this matter.

Senator SARBANES. If anything, you have intensified the pace toward bringing action—in other words, speeded it up. You have not, as a consequence of all that's transpired, there would not have been an impediment or a negative impacting upon the case?

Ms. KULKA. That's correct.

The CHAIRMAN. You nodded in the affirmative, too, Mr. Ryan.

Mr. RYAN. Yes, that's correct.

Senator SARBANES. Of course, that doesn't answer the question that we will examine with other witnesses about their behavior, because it might have had different results. It's very important, I think, to make the point here that, as far as impacting upon these cases, there has not been a negative impact upon them as you understand it. Is that correct, Mr. Ryan?

Mr. RYAN. That's correct.

Senator SARBANES. Mr. Roelle, would you ordinarily be told—not ordinarily. What number of cases would you have been told about a criminal referral? You say you got, I think, the night before, a phone call telling you about this one. Has it happened in the past?

Mr. ROELLE. It had happened the previous September on the first criminal referral regarding Madison.

Senator SARBANES. That came out in the questioning that Senator Kerry engaged you in. Is that correct?

Mr. ROELLE. Yes, and it did not happen other than when I was aware of the criminal referrals regarding Lincoln Savings Bank, but that was in early 1990.

Senator SARBANES. Upon receiving this information, you felt you should take it to Mr. Altman. Is that correct?

Mr. ROELLE. Yes, sir.

Senator SARBANES. Why was that?

Mr. ROELLE. Because he was the CEO.

Senator SARBANES. When you got the earlier information, had you taken it to Mr. Casey?

Mr. ROELLE. Yes, sir.

Senator SARBANES. In the earlier case, somehow or another, that information reached the White House because the Counsel to President Bush, Boyden Gray, sought additional information. Is that correct?

Mr. ROELLE. That's my understanding, yes, sir.

Senator SARBANES. Do you know how it reached him?

Mr. ROELLE. No, sir.

Senator SARBANES. I have no further questions.

Thank you, Mr. Chairman.

The CHAIRMAN. Every Senator here that's sought a first round has had one. Now I'm going to start a second round and we'll see how many people want to question this panel.

Ms. Kulka, it's my understanding that you thought Roger Altman should recuse himself from the RTC's investigation in this area. Is that correct?

Ms. KULKA. I thought that, for political reasons, sir, he should recuse himself, not for ethical or legal reasons.

The CHAIRMAN. Did you communicate that to him?

Ms. KULKA. I probably did.

The CHAIRMAN. You probably did?

Ms. KULKA. I really had several discussions on this with Mr. Ryan, Ms. Hanson, Mr. Altman, and I don't remember if I directly said—I probably asked it instead of said it. I probably would have put it in the context of why are you subjecting yourself and the RTC to the kinds of pressures that are occurring with this, and what is the positive aspect as you weigh the situation?

The CHAIRMAN. Weighing all that, your view was that it made more sense for him to recuse himself. Was that your view?

Ms. KULKA. From that perspective, yes.

The CHAIRMAN. Mr. Ryan, do you remember Ms. Kulka indicating that, reflecting that in all these meetings she's just described?

Mr. RYAN. I think Mr. Altman was well aware of her view. Whether there was ever precisely those words used or not, it's not clear.

The CHAIRMAN. Did you have a view?

Mr. RYAN. I had the same view.

The CHAIRMAN. Did you communicate it to Mr. Altman?

Mr. RYAN. I think it was communicated to Mr. Altman. I'm not certain that I ever specifically said I think you ought to recuse yourself, but I can recall that in the meetings where we were going

over questions and answers for the Committee hearing on oversight, it was clear Mr. Altman was aware of our views.

Ms. KULKA. Mr. Riegle, may I expand on my answer as I sit here thinking about it?

The CHAIRMAN. Yes.

Ms. KULKA. I think I made those remarks and held those feelings in the context of Mr. Altman repeatedly saying to Mr. Ryan and myself, I expect to follow your recommendation, whatever it is in this case. I cannot conceive of not following your recommendation, except if you don't make a recommendation, and I can't imagine that you won't make a recommendation, and in that context, I think, were my thoughts and questions.

The CHAIRMAN. The other side of this, as we've gathered these facts, is there's information—some you may have gathered and some to be presented—that there was some pressure on Mr. Altman to not recuse himself coming from people in the White House who expressed a view upon it. It seemed to me—in fact, in your deposition, you were asked the question did Ms. Hanson, who we're going to hear from later today, ever indicate to you or give you the impression by anything she said that there was any pressure being put on Mr. Altman by the White House not to recuse himself? Why don't you tell us what your view was on that.

Ms. KULKA. I don't think I responded that I thought there was pressure, but at one point in one of our conversations, I walked down the hall with her, and I said, "I just can't believe that he's willing to put himself in this position to take all this political heat when it's clear he's not going to make the actual decision. Why would he ever do it?" And she said to me, "Think about it." I may have said to her—I don't know if I said it back to her or I internalized the thought, that it may have been because the White House did not want him to, but that was it. I don't recall if she responded to me at all. I never had a direct confirmation that there was any White House involvement.

The CHAIRMAN. Did you ever understand that there was a point at which Mr. Altman had reached the point of deciding that he would, in fact, recuse himself?

Ms. KULKA. No.

The CHAIRMAN. Were you in the Committee room the day—on February 27, 1994—on February 24, 1994, when we had the hearing? You were there, were you not?

Ms. KULKA. Yes, sir.

The CHAIRMAN. As you know, there was a series of questions put to Mr. Altman, to which he responded. It's a matter of concern to many people, whether the answers were as clear and complete as they should have been. Were you listening to that exchange at the time?

Ms. KULKA. Yes, sir.

The CHAIRMAN. Did you have any information, based on your experience and your involvements, that would have caused you to feel that the answer was less than complete at the time?

Ms. KULKA. No, sir.

The CHAIRMAN. Did you think about it that way at the time?

Ms. KULKA. I was listening to all of these answers. There were a number of Q's and A's that were prepared and Mr. Altman said

when we were preparing them, "I can't read from things. I'll have to be familiar enough on a huge variety of subjects that might have dealt with the operation of the RTC as well as this. I'll just have to be able to remember enough of that or enough of any one that's appropriate to respond." In that context, there were many things in which we had prepared longer Q's and A's where he did not cover the whole ground. I had no more feeling about this, that the answer he had prepared to the question, if it were to come, about White House meetings did go beyond this, specifically to refer to the fact that he had mentioned considering his recusal to the White House, didn't trigger anything in my mind at the time.

The CHAIRMAN. How long did you spend ahead of time in the preparation for those answers, those Q's and A's, those prep sessions before the testimony of Mr. Altman?

Ms. KULKA. We spent the 6 or 7 days before, on and off, working on it and we had at least two long sessions with Mr. Altman.

The CHAIRMAN. How long would those sessions have lasted with Mr. Altman?

Ms. KULKA. I would say 2 or 3 hours at a time.

The CHAIRMAN. You probably spent 5 or 6 hours with him alone in addition to the other time the staff had spent working everything up on this. Is that correct?

Ms. KULKA. That's correct.

The CHAIRMAN. Was recusal, which was on the briefing sheet, discussed during this 4 to 6 hours with Mr. Altman?

Ms. KULKA. Yes.

The CHAIRMAN. To what length? I'm asking you to give me an estimate. You obviously don't have a stopwatch.

Ms. KULKA. We probably may have spent 15 or 20 percent of the time that we discussed how we would respond to all requests on Madison on the recusal issue.

The CHAIRMAN. Wouldn't it then have been—you did some of this briefing, I think, even the day before the hearing. Am I correct in that?

Ms. KULKA. I think—I can't recall. It was Monday or Tuesday night, whether it was Wednesday night I can't remember—

The CHAIRMAN. The point is, it came very shortly before the hearing.

Ms. KULKA. That's correct.

The CHAIRMAN. And part of the question we have to ask ourselves is would it have been reasonable for Mr. Altman to have remembered the subject of recusal, which had been the focus of, you say, 20 percent of the briefing time? You discussed it a short time beforehand. It was on the briefing document that he had. We have to ask whether or not it was reasonable that, in the scope of the questions he was asked, he would have mentioned that issue. As you know, he did not.

Ms. KULKA. Senator, I don't want to mislead you. We did not spend 15 or 20 percent of the time discussing his recusal issue with the White House. That was in passing. He put it down on his proposed answer. The time we spent discussing recusal dealt with whether a Senator asked a direct question about why he wasn't recusing himself or what he expected to do, and how he would talk

about his understanding of the way in which he would proceed, how he had instructed us in handling the matter, and so forth.

The CHAIRMAN. I appreciate the point you're making and we'll have a chance to hear from him on that question. Senator Sarbanes is asking for—

Senator SARBANES. Could I just get a clarification? Was the briefing of Altman and your work preparing for the briefing concern the whole activities of the RTC?

Ms. KULKA. That's correct.

Senator SARBANES. What portion of the briefing related to Madison and Whitewater would you say?

Ms. KULKA. Maybe 35, 40 percent.

Senator SARBANES. OK. Thank you.

The CHAIRMAN. You know, I think that begs another question. Was the recusal issue, that you said took 20 percent of the briefing time, on some issue other than Madison and Whitewater, or was it just on that issue?

Ms. KULKA. It was on that issue, sir. It would have been maybe 15 to 20 percent of the time we spent on Madison, which would have made it a smaller amount of time in the briefings. I just—

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman. I'm not going to take all my time. I'm going to yield my time to Senator Mack.

Regarding the preparation for that meeting, that Chairman Riegle spoke about, on February 24, 1994, wasn't there a preparation of Q's and A's regarding contacts between Treasury and the White House?

Ms. KULKA. There were questions posed, sir, yes.

Senator D'AMATO. Was it a Q and A?

Ms. KULKA. Yes.

Senator D'AMATO. About the contacts between Treasury and the White House?

Ms. KULKA. That's correct.

Senator D'AMATO. And that was about Madison and the contacts between Treasury and the White House re: Madison, it wasn't about anything else. Right?

Ms. KULKA. I don't have it in front of me, sir, but my recollection was that it was about Mr. Altman's contacts.

Senator D'AMATO. With the White House?

Ms. KULKA. That's correct.

Senator D'AMATO. As it related to Madison?

Ms. KULKA. That's correct.

Senator D'AMATO. Didn't the answers specifically make reference to the recusal discussion on February 2, 1994?

Ms. KULKA. That is my recollection.

Senator D'AMATO. So recusal answers were actually prepared as it related to the Madison matter whether or not he was going to recuse himself. Is that correct?

Ms. KULKA. And his discussions with the White House as it related to that.

There were two different sets of Q's and A's that would have dealt with it. One would have been in the context of what his discussion with the White House had covered and the other would have been directly on the issue of recusal.



Senator D'AMATO. Before the February 2, 1994, White House meeting, did anyone ask you for authorization or advice on what to say at that meeting?

Ms. KULKA. I'm sorry?

Senator D'AMATO. In other words, there was a meeting on February 2, 1994, where Mr. Altman met with Bernie Nussbaum, Maggie Williams, and others on the White House staff. Were you consulted about that meeting and were you asked any advice as to what they should or shouldn't say?

Ms. KULKA. I was unaware of that meeting until the Q and A session several weeks later.

Senator D'AMATO. That's substantially what we know of it. Would you have approved a briefing of the White House or any other private party that disclosed the progress of the Madison/Whitewater inquiry?

Ms. KULKA. I don't know what you mean by "progress," sir.

Senator D'AMATO. Status of the case.

Ms. KULKA. I don't know that anyone—I really don't even know if Mr. Altman knew the status of the case.

Senator D'AMATO. I'm not asking that. I said would you have approved it? I'm not asking you to get ahead or to try to anticipate what went on at that meeting. I said would you have approved a briefing to the White House or to any private party that disclosed the progress of a case under inquiry?

Ms. KULKA. I don't know what you mean by progress, sir. I don't mean to be argumentative, but our Q's and A's, I think, to some degree, were prepared to discuss some of the procedural aspects, if we were asked that by the Committee. If that is what you mean as progress, I think we would have been prepared to talk about the date that had been originally set for the expiration of the statute and tolling and so on.

Senator D'AMATO. Didn't you prepare and send to the staff a memo of February 4, 1994, in which you instructed the RTC officials what areas they should not discuss?

Ms. KULKA. That's correct. I did prepare one, and talked about what they were limited to discussing.

Senator D'AMATO. Isn't it a fact that that February 4, 1994, memo does not authorize any discussions with non-RTC officials about the likelihood of requiring a tolling agreement from private parties in the Madison case?

Ms. KULKA. It speaks for itself, sir, and I don't remember the words precisely.

Senator D'AMATO. That's a fact. Isn't it a fact that your February 4, 1994, memo does not authorize any discussions with non-RTC officials about which particular RTC personnel were supervising the Madison investigation?

Ms. KULKA. I'm sorry, sir, but if you'd like to give it to me, I'll reread it. Otherwise, you have it in front of you.

Senator SARBANES. Mr. Chairman, if we're going to do this—is this Ms. Kulka's memo?

Senator D'AMATO. Yes. February 4, 1994, and we have it.

The CHAIRMAN. If you're asking to have it in front of you, I think you ought to be able to have it in front of you.

Ms. KULKA. I'm sorry to say I can't even read that.

Senator D'AMATO. Let's send one down—let's read them out loud. These are talking points for anyone authorized to discuss the Madison situation, additional information should not be supplied unless it has been properly approved. This is standard procedure and anyone authorized to speak should be aware that the discussion of any additional information could have an impact on the agency's legal position and any matters arising out of Madison.

It's too bad that maybe they didn't have this before because, obviously, matters that are now rather contentious and the question of what they did speak about at that February 2, 1994, meeting could have been avoided. You have a list of eight different points. Does that refresh your recollection?

Ms. KULKA. Yes, I have it in front of me now, sir.

Senator D'AMATO. Isn't it a fact that the February 4, 1994, memo does not authorize any discussions with non-RTC officials about which particular RTC personnel were supervising the Madison investigation?

Ms. KULKA. Unless it had been properly approved, sir.

Senator D'AMATO. Correct. I yield the balance of my time to Senator Mack.

Senator MACK. I thank my friend. How much time do you have left?

Senator D'AMATO. I don't know. Three or 4 minutes. You can take it.

Senator MACK. Mr. Roelle, you had testified that Mr. Stephen Katsanos informed you of a press inquiry regarding matters relating to Madison in October 1993, which is to say not September 1993, and didn't you then relay that information to Mr. Altman?

Mr. ROELLE. Yes, sir.

Senator MACK. Do you have any disagreement with the way I've laid out those dates?

Mr. ROELLE. I don't recall exactly when I got the information from Mr. Katsanos. It was the E-mail that I referred to earlier in testimony today. I think he had forwarded a copy of it to me.

Senator MACK. I think that was October 6, 1993, but I'm not positive.

Mr. ROELLE. I had a subsequent normally scheduled meeting with the Treasury at Treasury. I related the fact that one of our investigators had been questioned by a reporter regarding the criminal referrals.

Senator MACK. What was Mr. Altman's response to that?

Mr. ROELLE. He took it rather well. He didn't get upset and he didn't express any indignation. He just said thank you.

Senator MACK. Was there any conversation with Ms. Hanson?

Mr. ROELLE. Yes, he called Ms. Hanson on the phone and told her what I was telling you.

Senator MACK. Mr. Roelle has indicated to us that on two different occasions Roger Altman directed Ms. Hanson with respect to the Madison matters. One, was either on September 24 or 27, 1993, you're not positive about the date, but I believe it was September 27, 1993, and the other was on October 6, 1993, when you informed Mr. Altman of the press information. And at that time, he directed Ms. Hanson to inform "Jack, Bernie, and the Secretary," I believe.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Dodd.

Senator DODD. Thank you, Mr. Chairman. I don't think I'll need all of the time.

Let me thank all four of you for being here. As I said the other day, one probably didn't assume that a year or so ago, you'd be asked to recall every conversation, thought, or hypothetical question in front of a Senate panel. It has been a panel for this purpose, so I want to thank you personally. All of you have distinguished records and long service, and that should be noted as part of the record.

I also want to associate myself with the questions raised by Senator Bryan and the concerns raised about the management issue of asking by statute to fill vacancies with only confirmable people. At that particular time in this Administration, it limited the decision to the Secretary of the Treasury and Mr. Altman, thus placing ourselves in a situation that invites the kind of problems and troubles that the OGE's office has identified.

I'm hopeful we'll address that issue, but it's important to note that all of you seem to express the notion that Mr. Altman, as well, was concerned about this and trying to do the best job he could. I think it's important for the record to reflect that.

I asked some very pointed questions, at the outset, in my line of questioning this morning, to get to the important questions for you, not hypothetical questions about what you would do if you were private attorneys or, in retrospect, what someone should or shouldn't do under political circumstances, and so forth. The issue for all four of you, but principally Mr. Ryan and Ms. Kulka, is what, if anything, happened as a result of this information being shared? People have used the words "insider information" suggesting, in effect, that that information had some impact or effect on the progress of the particular cases.

There's a legitimate set of questions that will come to those witnesses about what information was shared and with whom, and we ought to look at that. The second set of questions, in my view, addresses the issue of what, then, was done with that information, and to what extent that information, then, affected or is affecting the progress of the particular case, the Madison case.

It seems to me you're in a unique position to answer the latter question, and your opinions regarding the first are certainly worthwhile, but only the witnesses who were involved directly in those conversations are going to shed the kind of light that this Committee needs to have.

I want to focus this question, again coming back to the point, what were the implications, what actions either were suggested by the White House or the Treasury Department and what, if anything, did the RTC do with that information, if, in fact, it was shared or given to you?

It was pointed out by you, Mr. Roelle, that the reason you keep referrals private is for two reasons. One is to protect the innocent. Their reputations can be ruined if that information gets out. The other reason is to not destroy a case, to protect a case in effect.

I would ask you whether or not that is true, if that is exactly why the rationale for keeping the referrals private is important?

Mr. ROELLE. Yes, sir.

Senator DODD. Are you, or any of you here, aware of any evidence that the disclosures in this case, either by the press or others, in any way altered the course of the referrals or enabled anyone to gain an unfair advantage?

Mr. ROELLE. I am not, sir.

Senator DODD. No advantage whatsoever?

Mr. ROELLE. I am not aware of it.

Senator DODD. Ms. Kulka?

Ms. KULKA. I am not. I have great concern about parts of our investigation that keep getting released inappropriately and the effect that has on our ability.

Senator DODD. Mostly in the press?

Ms. KULKA. Certainly, at some point, in the press, sir.

Senator DODD. Mr. Ryan?

Mr. RYAN. No, I'm not aware of any either.

Senator DODD. Mr. Katsanos?

Mr. KATSANOS. No, sir.

Senator DODD. To your knowledge—and again anyone here—to your knowledge, did anyone who learned about the referrals—and we may find more who learned about the referrals—did anyone use that information in any way whatsoever to interfere with this case?

Mr. ROELLE. No, sir, not that I'm aware of.

Senator DODD. Ms. Kulka?

Ms. KULKA. No, sir.

Mr. RYAN. Not that I'm aware of.

Mr. KATSANOS. No, sir.

Senator DODD. I think that's an important point, Mr. Chairman, to make. Again, who had the information is important, but what they did with that information and to what extent they used that information to, in any way, try to pressure the RTC from doing its business is also important. These are the witnesses uniquely qualified to answer that question and the answer has been no.

Mr. Chairman, I think at this point it might also be worthwhile to include in the record this morning pages 7, 8, and 9 of the Office of Government Ethics' analysis of the meetings between Ms. Hanson, Mr. Nussbaum, and Mr. Sloan. I found that tremendously worthwhile. It's technical in nature, but our colleagues ought to focus on those pages, particularly when it comes to both the legality and the propriety of that information being shared. I would ask unanimous consent that be included in the record.

The CHAIRMAN. We had included that in the record, but I think drawing your attention to those pages is also appropriate.

Senator Bond, a vote has started. You're next. I'd like to start with you and see how far we can get and, in light of the fact we're going to have to adjourn for this vote, we should go on. I'd like to resume. I've talked to all the Members present. Some wish to have a few additional questions. Some think they'll need the whole time period, some not. I think we can finish here. I'd like to do that right after this vote so we can save the remainder of the day for Ms. Hanson, who I think we need to hear from. She will address many of these same issues, and I'd like to bring her on as early this afternoon as we can. But I want to make sure everybody has a chance to finish up with these witnesses.

Senator BOXER. Mr. Chairman—

Senator SARBANES. Can we get some sense of how much time this panel will involve, because some of us may not have any further questions for this panel.

The CHAIRMAN. I think, from my estimation here, 30, 35 minutes from what Members have said to me. Now, that can change based on what develops, but that's my best estimate based on asking each Member.

Senator DOMENICI. I'm going to go vote and come back.

Senator BOXER. Mr. Chairman, I'm going to do the same. I'm going to vote, come back, and have my questions.

The CHAIRMAN. Very good. Senator Bond.

Senator BOND. Hopefully, we can go quickly and finish up in 7 minutes. I'm going to follow up on the line of questions asked by my good friend from Connecticut. I want him to know that.

Senator DODD. I'm going to stick around.

Senator BOND. We have had in the record significant discussions. The written answer provided to me by the RTC said the reason that you don't disclose an ongoing investigation is because it may serve to alert a suspect that an investigation may be pending and enable the suspect to conceal or destroy evidence, conceal or dissipate the proceeds of the crime, fabricate evidence, or otherwise impede the investigation. That's correct, Mr. Ryan?

Mr. RYAN. That's correct.

Senator BOND. If a subject or a suspect who had been tipped off had concealed, destroyed, dissipated proceeds, or fabricated evidence, you may not know that. Is that correct?

Mr. RYAN. That's correct.

Senator BOND. Thus, when you say that there has been nothing as a result of this tipoff that would impede the investigation, you can speak with knowledge about the work going on internally at the RTC, but do you have any means of knowing whether any action was taken by any of the people mentioned in the referral, whether it was Governor Tucker or other subjects? Do you have any positive knowledge that no steps were taken by the people named in the referral? Mr. Roelle?

Mr. ROELLE. Sir, I think I answered that. I'm not aware of anything.

Senator BOND. Ms. Kulka?

Ms. KULKA. I would have no knowledge, sir.

Senator BOND. Mr. Ryan?

Mr. RYAN. I would have no knowledge.

Senator BOND. Mr. Katsanos?

Mr. KATSANOS. There's no way to make that determination.

Senator BOND. That's precisely the reason you don't disclose it, because you as regulators would have great difficulty finding out if there was a premature disclosure and you had not been able to proceed with your investigation.

Ms. KULKA. Sir, that is why I continue, in every forum I have, to try to protect the information that we are gathering with respect to our investigation. I am concerned, sir, that it could be released to anyone who does not have an absolute need to know because of its utility for other people, and it goes way beyond the specific issues you've raised.

Senator BOND. I would agree with you. I think it is quite accurate.

I would ask, Mr. Ryan, the Office of Government Ethics report, that we've discussed, laid out specifically why possibilities of a leak or press inquiries were not an adequate basis for destroying the confidentiality. Do you agree, and is it the policy of the RTC that the possibility of a press inquiry or a prospective leak is a sufficient reason to divulge confidential information?

Mr. RYAN. I have not seen that report. I haven't had an opportunity to review it in depth.

Senator BOND. Let me ask you another way. Were you to have an exception that said if there was a prospective leak or a possible press inquiry, would that not open you to disclosure of every piece of confidential information?

Mr. RYAN. It would.

Senator BOND. Excuse me, let the record say that—

Mr. RYAN. It would.

Senator BOND. —Mr. Ryan said that it would. Because, once the press found that the RTC was a great fishing ground, you could expect Mr. Katsanos' phone to ring 24 hours a day. Is that correct?

Mr. RYAN. That's correct.

Senator BOND. Mr. Katsanos?

Mr. KATSANOS. That is correct.

The CHAIRMAN. Sounds like it's been ringing 24 hours a day.

Senator BOND. I had some questions for Mr. Roelle.

The CHAIRMAN. He'll be back in just a moment. He had to step away for a second.

Mr. KATSANOS. Senator Bond, may I inject one point here on the question of referrals?

Senator BOND. Yes.

Mr. KATSANOS. Our policy is if a reporter approaches our office and has information, and in our determination very good information, about a referral, we still would not acknowledge it.

Senator BOND. I thank you, sir, and I believe that makes great sense.

Ms. Kulka, let me turn to you. What was it that led you to write the memo on February 4, 1994, discussing appropriate limitations on discussion? Was there a query? Was there information that came to your attention that necessitated such a memo?

Ms. KULKA. I think it was partly my frustration for seeing how things operated at the RTC, especially Mr. Katsanos' Early Bird, which I believe spread information around to inappropriate people. For instance, those things are not marked confidential. They're not delivered in sealed envelopes. They are delivered to the outside inbox so anyone passing through my office, for instance, could see them. I thought they provided a lot of information or misinformation that we would neither want to deny nor admit, and that was endemic to what was going on at the RTC that caused me the kind of concerns that led me, after the discussion with Mr. Ryan, to issue this memo.

Senator MACK. With respect to—was there a particular reason why that memo was written 2 days after the White House meeting?

Ms. KULKA. No.

Senator BOND. You did not know about the White House meeting?

Ms. KULKA. That's correct.

Senator BOND. In preparing the briefing for the February 24, 1994, appearance before the Banking Committee, did Mr. Altman or Ms. Hanson reveal to the people involved in the meeting the existence of the fall 1993 briefings to the White House?

Ms. KULKA. No.

Senator BOND. That was not discussed?

Ms. KULKA. That's correct.

Senator BOND. Mr. Roelle, in your first meeting with Mr. Altman, he laid down certain guidelines with respect to special measures to be taken when there were high-profile individuals affiliated with failed S&L's. Is that correct?

Mr. ROELLE. The first meeting on Madison?

Senator BOND. March 1993.

Mr. ROELLE. Yes, sir.

Senator BOND. Mr. Altman said he didn't want to read it in the paper.

Mr. ROELLE. That's correct.

Senator BOND. This became your standard operating procedure. You wanted to make sure he didn't read any of these things in the paper.

Mr. ROELLE. That's correct.

Senator BOND. If they involved high-profile individuals.

Mr. ROELLE. That's correct.

Senator BOND. Mr. Roelle, were you involved in any discussions with Mr. Altman, Ms. Hanson, Mr. Newman, or other Treasury officials in the time period of March to May 1993, on the issue of the RTC's position on extending the statute of limitations which, as you may recall, was conveyed in a reversal of policy and the letter signed May 4, 1993, by Mr. Altman, in which the RTC went on record as saying it no longer supported extension of the statute of limitations?

Mr. ROELLE. Yes, I'm aware there were a number of discussions.

Senator BOND. Who was involved and what was the subject of those discussions?

Mr. ROELLE. It's whether—there's two issues, just so everybody understands. There's two issues relating to the statute of limitations. There's one relating to our ability to pursue cases that have wrongdoing with regard to willful intent and fraud. And then there was the issue—the later issue with regard to some of the States being in conflict with—

Senator BOND. Could you give us, for the record, the names of the individuals involved in the meetings?

Mr. ROELLE. It was in one of our normal meetings.

Senator BOND. Which would include—

Mr. ROELLE. Let's see. Whoever—probably Rick Aboussie, who was our Acting General Counsel at the time, Lamar Kelly, who was the Senior Vice President, myself, who is a Senior Vice President, and maybe two or three other staff people from the RTC. I just don't recall who it may have been.

Senator BOND. Any higher-level?

Mr. ROELLE. Ms. Johnnie Booker, who was our EEO and Minority Officer. It would have included some Treasury people. I don't know—I can only tell you who attended those meetings. I just don't recall who was there at the meetings, but it could have been Mr. Newman, Mr. Steiner, Ms. Hanson, or Mr. Altman. Some Treasury staffers usually accompanied these people. At any one of our meetings, it would not be unusual to have anywhere from five to seven or eight Treasury people and maybe five to seven or eight RTC people. You could have 16 people at a meeting.

Senator BOND. Thank you, Mr. Chairman. I see my time is up.

The CHAIRMAN. Thank you, Senator Bond. Let me indicate that roll call is now taking place on the Senate floor——

Senator MACK. Mr. Chairman, I only have one question. We should be able to get it finished.

The CHAIRMAN. Senator Mack, let me just take a minute. We've got about 6 minutes to get to the floor from right now.

Senator MACK. This is directed to Mr. Katsanos. I understand you had a number of conversations with Jack DeVore, former Spokesman for Secretary Bentsen, about the Madison referrals in the fall of 1993. Drawing your attention to the second and third conversations you had with him, I understand that you knew of the October 14, 1993, meeting with Ms. Hanson and several White House officials. What was your understanding of why this meeting was taking place?

Mr. KATSANOS. My knowledge of the meeting is really not very extensive. Jack DeVore had called me up. He was preparing to exit the Treasury Department. I had spoken with him earlier in the month to alert him to the fact that some reporters were calling us concerning Madison Guaranty, the Rose Law Firm, and a number of issues relating to them. I had told him the staff was having some disagreements on potential criminal referrals, and I thought this story could appear. He called me and told me he was getting ready to go over to the White House for a meeting and all he wanted to know was whether the referrals had been sent and I acknowledged they had been.

Senator MACK. Did you get any sense about whether this was a press meeting or——

Mr. KATSANOS. It was my impression that he was going to meet with Mr. Gearan at the White House. I believe he's the Communications Director, and that was the only person he had mentioned would be at the meeting.

Senator MACK. Didn't you think you should have been at that meeting?

Mr. KATSANOS. The White House is not my territory, sir.

The CHAIRMAN. Thank you, Senator Mack. We're going to take a brief recess. I want to finish this panel so you can be done for the day. We can take a break after that, and bring Ms. Hanson on. I'm going to recess us now and we'll reconvene no later than 2:30 p.m. to try to finish up. So, if you can be ready to go at 2:30 p.m., we'll resume at that time. The Committee stands in recess.

[Recess.]

The CHAIRMAN. We invite the witnesses to come back to the witness table.



Let me say to all of you, I know it's been a long morning and it's difficult to be here for that length of time. We're sensitive to that and I think we'll be able to finish up in a reasonable amount of time now that we've resumed. There are a few Senators that have some remaining questions for you, so we'll try to work through those.

When we finish, it would be my intention to take a late afternoon lunch break, a half hour or thereabouts. I'll set the time exactly when we finish. When we complete that, we'll have Ms. Hanson in this afternoon, take her statement, and proceed with questions in her instance.

Senator Boxer, let me yield to you now.

Senator BOXER. Thank you very much, Mr. Chairman. Let me say, since this is my last round, I appreciate the witnesses' candor with us. You have told us what you believe and you've said it straight from the shoulder. We can't expect any more of you than that. I feel very good that you're the kind of people you are.

To go back to my little discussion with Mr. Katsanos over this Early Bird, I would just give you—you didn't ask me for this—but just a little bit of my own experience as a reporter. Many times when I was working on a story, the result was it didn't pan out. Sometimes you start on a story, you ask a lot of questions just to get some light in somebody's eye, and the thing never materializes. If somebody repeats certain accusations you make, by way of a question or whatever else, it could really do damage.

So I would urge you—and I would address this to Mr. Ryan more than you, because you work for him. That's my understanding. Is that correct?

Mr. KATSANOS. That is correct.

Senator BOXER. Since, presumably, only six people get this, I would just do a little E-mail and mark it confidential if there's something they need to know about. I think a lot of this stuff is just rumor and garbage and I don't think it serves the taxpayers to be spending our money in that way. It reminds me, we all know that it doesn't feel great to wake up in the morning and see a press story. I mean, gosh, we're elected by the people. We don't want to see a bad press story. But if we or our staff spent our waking hours printing up what might be said by the press or what we might read, we wouldn't get our work done. Therefore, I would urge that we give this thing a little burial. That's my suggestion.

I have a question for Mr. Ryan, Ms. Kulka, and Mr. Roelle, and I think it's just a yes or no. I'll start with Mr. Ryan and work down through the three of you. Did Mr. Altman or Ms. Hanson ever ask for details about the content of RTC criminal referrals or the civil investigation of Madison Guaranty?

Mr. RYAN. No.

Ms. KULKA. No, Senator.

Mr. ROELLE. No.

Senator BOXER. Did Mr. Altman or Ms. Hanson ever ask for information on the progress of the criminal referrals or on the status of the RTC civil investigation of Madison?

Mr. RYAN. Not to me, no.

Senator BOXER. Ms. Kulka?

Ms. KULKA. No, other than to make sure that it was—the civil investigation was ongoing, that was the only information asked for or received.

Senator BOXER. Mr. Roelle?

Mr. ROELLE. No.

Senator BOXER. Did any White House staff ask you for details about the content of RTC criminal referrals or the civil investigation of Madison Guaranty?

Mr. RYAN. No, Senator.

Ms. KULKA. No.

Mr. ROELLE. No.

Senator BOXER. Have any of you been pressured by the White House staff to take certain action on or come to certain conclusions about the Madison Guaranty case, either criminal or civil?

Mr. RYAN. No.

Ms. KULKA. No.

Mr. ROELLE. No.

Senator BOXER. The reason I wanted to ask those questions for the American people, was because I think that when we're looking at the substance of this investigation, it's important to note, Mr. Chairman, that none of these witnesses—actually, we have in the case of Ms. Kulka, she's in charge of the lawsuit—but none of them have stated they had any pressure brought upon them, in any way, on either the criminal or the civil side of this investigation.

I think it's important for us to ferret where the pressure points were on the RTC. They certainly weren't coming from the White House, or from Mr. Altman or Ms. Hanson, as we can tell from these witnesses, who I have no reason to believe were not telling us the truth, nor do I think my Republican friends believe that to be the case. So, here we have witnesses stating very clearly that no pressure was put on them, vis-à-vis the substance of these investigations.

As I look at where the pressure points are, maybe we can take the issue of the hiring of Mr. Stephens. He was certainly a controversial appointment, given his record of on-the-record criticisms of this President. I read them myself. They're pretty harsh. He has every right to make those, but the fact is, this is the man who was hired via Pillsbury.

Ms. Kulka, am I correct in asking you, in suggesting that you have stated to the Committee that no pressure was put on you to dismiss Mr. Stephens once he was hired. Is that correct?

Ms. KULKA. That's correct.

Senator BOXER. No one asked you to fire Mr. Stephens or in any way change the hiring of Pillsbury?

Ms. KULKA. That's correct.

Senator BOXER. Is that correct, Mr. Ryan, from your standpoint?

Mr. RYAN. That's correct.

Senator BOXER. All right. We had no pressure put on either of these areas. In my view, there was a lot of talking, too much talking going on, vis-à-vis the Early Bird, within the RTC and you don't even know who leaked a lot of this. As I understand it, Mr. Ryan, you're going to see who's been leaking some of this information. Is that correct?

Mr. RYAN. That's correct.

Senator BOXER. I urge you to do that. There was lots of talking, in my opinion, inappropriately, by the White House staff. We're here to function as a Government, to live with the services people need, to have an economic strategy for this Nation, which we finally have on course, and many other things. It seems to me to be a waste of time to rap to one another about what may or may not be something the press is going to write about.

It's a human instinct, but I think it doesn't serve any of us well. I believe, by the way, that lesson has been learned. If we're to believe Mr. Cutler, and I believe he's an honorable person, he essentially said too much talking on and on.

As I look at it, Mr. Chairman, I'll close here at this point. Where were the pressure points on these people? There were a couple of pressure points, but they came from Members of Congress. I think that's the news of the day. Ms. Kulka testified that outside of Members of Congress suggesting how to handle Whitewater, in doing tolling agreements and all that, no one else got involved in anything to do with this matter.

I'm not saying the pressure was inappropriate. Don't get me wrong. A meeting was set up by Senator D'Amato and, as I understand it, on further discussion with the Chairman, the Chairman had nothing to do with that meeting. That meeting was set up by Senator D'Amato. He summoned, or summoned through his staff, Mr. Ryan, who never before had ever come up to the Hill, to answer these types of questions. There was pressure put on, but, as far as I'm concerned, the pressure did not come from Mr. Altman, Ms. Hanson, the Treasury, or White House officials.

While there was altogether too much talking, the pressure points didn't come from the White House. Ironically, it seems to me, more pressure was coming from the Congress. I'm finished.

The CHAIRMAN. Yes, I know. I'm just checking to make sure we covered everybody who wanted to be recognized on the first go around. We're starting down the second time. Senator Hatch has spoken so it would be Senator Faircloth's opportunity.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

The CHAIRMAN. We'll come right down the table on that side and this side in rotating order.

Senator FAIRCLOTH. On the question that the RTC provided documents to Representative Leach, in addition to placing the RTC's legal brief in their action with Mr. Leach in the record, I would also move that Representative Leach's brief in that case be made a part of this record.

The CHAIRMAN. Can I take that under advisement? I have no idea what's within the scope of what they've assembled, and I want to make sure some of the stuff they have doesn't go beyond our scope requirement. I'd be happy to look at that. I'm not familiar with it. If I can reserve on that, we'll take a look at it and if there's no problem we'll put it in.

Senator FAIRCLOTH. No problem.

Ms. Kulka, earlier, Mr. Ryan confirmed that the RTC has in its possession a report prepared by Memphis attorney Stanley Huggins, known as either the Huggins report or the Garish report. Ms. Kulka, have you seen this report?

Ms. KULKA. I've seen a report by Mr. Garish.

Senator FAIRCLOTH. Has anyone at the White House or one of their personal attorneys contacted you about it?

Ms. KULKA. No, sir.

Senator FAIRCLOTH. Do you know if anyone outside of the RTC has a copy of the report?

Ms. KULKA. I have no way of knowing, sir.

Senator FAIRCLOTH. I understand that you moved from the Office of Thrift Supervision to the Resolution Trust Corporation about the middle of January 1994.

Ms. KULKA. That's correct.

Senator FAIRCLOTH. Your second workday you begin to discuss the matter of Madison Guaranty Savings & Loan with Roger Altman.

Ms. KULKA. Yes, sir.

Senator FAIRCLOTH. Did you discuss any of the other pending RTC investigations into savings and loan's with Mr. Altman or only Madison?

Ms. KULKA. Only Madison, sir.

Senator FAIRCLOTH. Only Madison.

Ms. KULKA. That's correct.

Senator FAIRCLOTH. The investigation of Madison was the only investigation you discussed with him. So, as far as you know, Madison was the only RTC investigation that any RTC staff briefed Mr. Altman on.

Ms. KULKA. I don't know, sir, but that's the only one where we received so many congressional inquiries at that time.

Senator FAIRCLOTH. But that's the only one you talked to him about.

Ms. KULKA. That's correct.

Senator FAIRCLOTH. How many times did you discuss Madison Guaranty with Mr. Altman?

Ms. KULKA. To the best of my recollection, other than the briefings for the oversight board hearings, it may have been 2 or 3 times.

Senator FAIRCLOTH. Do you remember the dates?

Ms. KULKA. I really don't, sir.

Senator FAIRCLOTH. You don't keep a log?

Ms. KULKA. No.

Senator FAIRCLOTH. No records or notes of the meetings?

Ms. KULKA. I combed through my records, sir, and I don't have any notes. I have calendar indications of meetings, but they could have been on a wide variety of subjects. There's nothing to tell me when I may have discussed this subject with Mr. Altman.

Senator FAIRCLOTH. It would appear, then, if you were having a meeting with your boss, Mr. Altman, on something of this important of an issue, that you would have kept some note or record or made notes of what you were doing and when you did it.

Ms. KULKA. I'm sorry, sir, but I did not.

Senator FAIRCLOTH. All right. The RTC was investigating to find out who was responsible for \$50 million in losses at Madison Guaranty, losses that the Federal taxpayers had to make good. Based on its investigation, the RTC could bring civil suits against persons who were responsible for questionable financial dealings or who had benefited from them, civil suits to get some of that money back

to the taxpayers. Unless Congress acted, the statute of limitations was going to expire on February 28, 1994. Persons who might be responsible for some of the \$50 million that the taxpayers lost included President and Ms. Clinton, their political and business associates.

Was Mr. Altman aware that the statute of limitations was set to expire on February 28, 1994?

Ms. KULKA. Yes, sir.

Senator FAIRCLOTH. Did you discuss what the option might be if the RTC did not meet the deadlines?

Ms. KULKA. Yes, sir.

Senator FAIRCLOTH. What else did you discuss with Mr. Altman?

Ms. KULKA. I discussed the reasons why private persons might be willing to execute tolling agreements and why they might not be willing to execute tolling agreements.

Senator FAIRCLOTH. All this you did without notes as to when you did it, and what you talked on. You just simply went in, had a little circular verbiage, came back out, and forgot it. You didn't know when, what, or why. Is that right?

Ms. KULKA. I didn't forget my conversation, sir. I recollect the main points of it, and I don't, invariably, speak from notes.

Senator FAIRCLOTH. Did you ever talk to Robert Fiske?

Ms. KULKA. Yes.

Senator FAIRCLOTH. What did you talk to him about?

Ms. KULKA. I talked to him on a couple of occasions about coordinating our investigations and dealing with information in similar matters.

Senator FAIRCLOTH. That's all, Mr. Chairman.

The CHAIRMAN. Senator Sasser.

Senator SASSER. Thank you very much, Mr. Chairman. I really just have one question, which I want to direct to Ms. Kulka.

Ms. Kulka, as I heard it, you testified earlier today that you told Mr. Robert Altman that you would indeed file a civil case against Madison before the statute of limitations expired, if it were warranted.

Ms. KULKA. Yes, that's to Roger Altman, sir.

Senator SASSER. I said Robert, didn't I?

Ms. KULKA. Yes.

Senator SASSER. You're a good listener. I guess what I'm trying to resolve in my own mind is, if an attorney for a matter, who was about to be sued, somehow got wind of the information that you gave Mr. Altman, that you were going to go ahead and bring suit before the statute of limitations expired, if it were warranted, what value is that information to anybody?

Ms. KULKA. I don't care to speculate, sir.

Senator SASSER. Let me just say, I think, as one who used to be a practicing lawyer for 15 years, it's of absolutely no value. In other words, what you're saying is yes, the RTC is going to bring suit in a civil case against Madison before the statute of limitations expires, if it is warranted, and if it is not warranted, if the facts don't justify, then you will not bring a suit. But you're going to make that decision, and if it's justified, move forward before the statute of limitations expires and bars the suit. If that's the information Mr. Altman got, and if he were to pass that on to anyone, particu-

larly the attorney representing Madison, it would not be of any particular value whatsoever. It would just simply say that you better—that you're going to bring the suit before the statute of limitations bars it, if there is—if you perceive there's merit to the suit. That's it. That's no big deal, at least as I read it.

I guess that's my only question, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Sasser. Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman. Is this working again? All right. They gave me another one just in case.

First, let me make an editorial comment, which I hope is in the nature of a compliment, Ms. Kulka. We understand from the testimony of a number of people that, at least, Mr. Nussbaum was quite concerned about the possibility that you would become the decisionmaker on this case if Mr. Altman recused himself. He described you in somewhat less than flattering terms, but the bottom line was that he thought you were too tough. I think Mr. Nussbaum's judgment about what would happen if you were made one of the decisionmakers was probably a correct one. I think you would be tough, fair, and honest, and I think he was rightly concerned that Mr. Altman's recusal would put you in that decision-making tree.

Let's go back to a conversation—a meeting that you talked a little bit about before. I simply want to flesh out where the meeting was, and that there was a discussion of whether or not people would be willing to sign tolling agreements. Was Mr. Steiner there?

Ms. KULKA. I wish I could recollect exactly who was there, sir, but I cannot.

Senator BENNETT. Can you tell us what was said?

Ms. KULKA. Basically, Mr. Altman, who was not familiar with this kind of litigation, was asking why people would sign tolling agreements and under what circumstances would you try to get tolling agreements. I think I explained that if you thought you would want more time to shape up your case, if you could show it was also in the interest of a potential defendant to have more time, or if you thought it might lead to negotiated settlement, which would avoid expensive and lengthy litigation, that was it.

Also, that different potential defendants have different personal needs. Some can't financially afford the litigation, and they may be willing to sign tolling agreements even though they may be advised the case against them, from their own attorney's point of view, isn't strong. Or, as I told Mr. Altman, a political figure, who would have a great deal of difficulty not giving a tolling agreement even if that person felt that the case was not strong, because of the political heat he or she would take.

Senator BENNETT. Did you specifically talk about any political figure, other than the generic class?

Ms. KULKA. I think it would be inappropriate for me to discuss anything other than that.

Senator BENNETT. I see.

The CHAIRMAN. On what ground?

Ms. KULKA. I think that I have an obligation to protect the confidentiality of my investigation, and I think, very strongly, sir, that I have tried to assert that in every forum. To the extent there are disclosures made, I do not want to waive any of the privileges this

agency has. I think for the General Counsel to do so would be inappropriate.

The CHAIRMAN. I just want to understand. If you're withholding an answer based on the fact that you think it's material to an ongoing investigation by someone, then I think that's an entirely appropriate response on your part. I just want to understand if that's the ground on which you're filing that reservation.

Ms. KULKA. That's correct.

The CHAIRMAN. Thank you.

Senator BENNETT. You realize, there is the potential of an impression coming out of this, that there was discussion as to whether or not the Clintons would be willing to sign a tolling agreement, and what—I mean, you can take it from there. You don't have to be very astute in this town to know the kinds of implications that will be drawn from this.

Ms. KULKA. I deplore the drawing of those implications, and I'm not able to deal with them.

Senator KERRY. The same drawing of implications would allow you to draw the implication that, if the RTC were seeking tolling, given the history of leaks, it would be well nigh impossible for the Clintons to avoid signing it because of the political reality. If we're going to draw implications, let's go the distance.

Senator BENNETT. I can't control in which direction the implication—

Senator KERRY. That's why it's better not to draw them, I think.

Senator BENNETT. I have not drawn any. I'm just pointing out that the failure to answer will make it possible for some people to do that.

Senator BENNETT. I have nothing further, Mr. Chairman. I'll yield my time to Senator Hatch.

The CHAIRMAN. To whom?

Senator BENNETT. Senator Hatch.

The CHAIRMAN. Senator Hatch, the way we're going to handle remaining time from one person's questioning is that the next person has to take it right then. Are you ready to use that time now?

Senator HATCH. Sure. Ms. Kulka, I want to return to some questions about the February 1, 1994, status of the investigation, since that's a critical time. You testified, as of February 1, 1994, you hadn't focused on individuals, as I recall your testimony. Let me just read to you from Mr. Nye's deposition. He said:

The issue, as I understand it, was in light of the circumstances of the February 28, 1994, expiration of the statute of limitations, whether one should seek a tolling agreement, drop the cases, or file suit based on what she deemed would be imperfect information.

*Question:* What did Ms. Kulka say about the imperfections of the information at that point?

*Answer:* Just that she wouldn't have enough time between. Her feeling was that she wouldn't have enough time between then and the date of the meeting and February 28, 1994, the statute of limitations expiration, to make as informed a decision as she would need to make, in her opinion. That wouldn't be enough to sort of go through all of these mountains of documents and so forth, or for her staff to do so, and that, ultimately, she would have to be making a decision with the best information possible at that time.

That's what he said, but isn't it true, then, as of February 1, 1994, that the RTC needed to review many records with regard to these meetings?

Ms. KULKA. That's correct.

Senator HATCH. Isn't it true that the RTC needed to interview additional witnesses?

Ms. KULKA. That's correct.

Senator HATCH. And isn't it true that on February 2, 1994, the RTC had a team in Kansas City, Missouri, interviewing the RTC investigators in an effort to gather information and identify records?

Ms. KULKA. Yes.

Senator HATCH. In fact, the RTC still hasn't completed its investigation as of today and certainly hadn't concluded its investigation as of February 28, 1994.

Ms. KULKA. That's correct.

Senator HATCH. Isn't it true, also, that it would have been extremely difficult to complete an investigation by February 28, 1994?

Ms. KULKA. That's correct.

Senator HATCH. You so informed Mr. Altman?

Ms. KULKA. That's correct.

Senator HATCH. Mr. Katsanos, if I could ask you a question or two.

Mr. KATSANOS. Certainly, sir.

Senator HATCH. I want to understand this Early Bird. Isn't it true the Early Bird in October did not publish information about, No. 1, the names of all of the parties to the criminal referral?

Mr. KATSANOS. That is correct.

Senator HATCH. In fact, No. 2, it did not give any status of the parties named in the criminal referral.

Mr. KATSANOS. That's correct.

Senator HATCH. No. 3, the allegations against the individuals named in the criminal referral were not referred to either.

Mr. KATSANOS. That's correct. The Early Bird deals only with issues being raised by reporters in a very summary fashion.

Senator HATCH. So none of those things were covered by the Early Bird.

Mr. KATSANOS. That is correct.

Senator HATCH. Mr. Roelle, just a question or two for you. As I understand it, you informed Ms. Hanson about, No. 1, the names of the parties to the criminal referral. Right?

Mr. ROELLE. Yes, sir.

Senator HATCH. No. 2, the status of the parties referred to in the criminal referral.

Mr. ROELLE. No, sir.

Senator HATCH. You did not inform her, in any way, about the status of those parties?

Mr. ROELLE. No, sir.

Senator HATCH. No. 3, the allegations against the individuals named. Did you inform her about those?

Mr. ROELLE. Yes, sir.

Senator HATCH. You gave her the names of the parties and the allegations against them.

Mr. ROELLE. Yes, sir.

The CHAIRMAN. Thank you. Senator Kerry.

Senator HATCH. I only have one more. The time is up?



The CHAIRMAN. The time is up. If it's one brief follow-up question and it will finish you, I'll defer to you.

Senator HATCH. If I may have this one, I won't ask any more. The CHAIRMAN. Very good.

Senator HATCH. Ms. Kulka, given the status of the Madison investigation in early February and the fact that the statute of limitations was due to run on February 28, 1994, do you think a reasonable person might conclude that it would be to a potential defendant's advantage to have the case dropped by the RTC and turned over to Mr. Fiske?

Ms. KULKA. I have no idea, sir.

Senator HATCH. He was very busy. He had all of the thousands of issues involved in the matter and would not have had the team or the time that you would have had to have followed through—

Ms. KULKA. I don't know who has more staff available or what resources are available to him.

The CHAIRMAN. Excuse me. I misspoke earlier. Senator Shelby of Alabama.

Senator SHELBY. I'll try to be brief. Ms. Kulka, could you go into, again, what Rule 11 says and why it was there, with a brief discussion?

Ms. KULKA. There's a Federal Rule of Civil Procedure which provides, in essence, that an attorney may not sign or certify a pleading unless that attorney believes there is a factual basis for the allegations set forth in the pleading in the complaint, for instance, and that it's made in good faith and is not frivolous. There are sanctions that are assessable against the attorney, rather than the client, if inappropriate pleadings are filed that don't meet the standards set forth in Rule 11.

Senator SHELBY. Basically, you and your office were aware that this case was not ready for filing at this point in time.

Ms. KULKA. It wasn't ready for filing in early February, that is for sure.

Senator SHELBY. That's what I mean.

Ms. KULKA. That's correct.

Senator SHELBY. Information is very important, isn't it, Ms. Kulka?

Ms. KULKA. Yes.

Senator SHELBY. And inside information or information that's not known to the public but could possibly affect someone's case is a precious commodity, isn't it?

Ms. KULKA. It can be.

Senator SHELBY. It can be. Other than Mr. Altman, I'm aware of what Ms. Hanson's contacts were and so forth, but did anyone in the RTC other than Mr. Altman, to your knowledge, mention briefing the White House?

Ms. KULKA. No, sir.

Senator SHELBY. So, except for Mr. Altman wearing these two hats, in other words, being the Deputy Secretary of Treasury and the Acting CEO of the RTC, was that the catalyst for the problem?

Ms. KULKA. I don't know, sir. There is a provision in the statute, 1821T, although I'm not good at citing them, that permits Government agencies to share a lot of confidential information with other Government agencies without waiving the privilege. I think that's

in recognition of the fact that it was unclear, if you shared that information before that provision was passed, that you wouldn't waive the privilege. That's all to a recognition that agencies do share information.

Senator SHELBY. Ms. Kulka, this information regarding two possible—criminal referrals, that is confidential information, isn't it?

Ms. KULKA. That's correct, and you wouldn't reveal it outside of the appropriate Government agencies.

Senator SHELBY. Have you known, since you've been at the RTC, of any other information like that that's been disseminated out of the RTC?

Ms. KULKA. Of course, there is the information that our staff regularly leaks, sir, and we've had a great deal of difficulty with.

Senator SHELBY. Other than that, do you know of some specific briefings that took place other than Altman, Bentsen, and so forth?

Ms. KULKA. Are you referring to the White House?

Senator SHELBY. Yes.

Ms. KULKA. I'm unaware of any.

Senator SHELBY. There's a difference between an ordinary leak and a specific briefing, is it not?

Ms. KULKA. There's a difference between a briefing within the Government and a leak outside of the Government, yes, sir.

Senator SHELBY. Would you call it a briefing within the Government when the Counsel at Treasury goes to the White House and explains what's going on at the RTC regarding some people that could be targets of that?

Ms. KULKA. I don't understand if what you're telling me, sir, is the factual basis for what happened or if it was the subject matter. I have a lot of problems speculating about it, the way you've got it characterized.

Senator SHELBY. In other words, you don't know what went on down there other than what you've been told or read. Is that what you're saying?

Ms. KULKA. That's correct.

Senator SHELBY. You don't want to speculate at all?

Ms. KULKA. That's correct.

Senator SHELBY. You did say, a minute ago, this is confidential information that should have stayed within the RTC?

Ms. KULKA. No, I said it could be shared amongst Government agencies, in the appropriate circumstance, without waiving the privileges.

Senator SHELBY. What would you consider to be proper Government agencies?

Ms. KULKA. I think it depends on the circumstance.

Senator SHELBY. What would you consider?

Ms. KULKA. For instance, when I was at OTS, OTS and the RTC shared a lot of information about criminal referrals and investigations. We shared them with other regulatory agencies. We shared them with the Department of Justice. They were not just criminal referrals.

Senator SHELBY. Did you share them with the White House?

Ms. KULKA. No, sir.

Senator SHELBY. That's all.

The CHAIRMAN. Thank you, Senator Shelby.

Senator Domenici.

Senator DOMENICI. Thank you very much. Could I ask, would you give me your definition of a recusal, Mr. Ryan?

Mr. RYAN. My definition of a recusal would be a decision on someone's part to take no part in any deliberations regarding that matter, to completely not participate in any decision, not receive any information, and to not deal with it at all.

Senator DOMENICI. Mr. Ryan and Ms. Kulka, in this context, why would one recuse himself? Why would Mr. Altman be considering recusing and why would you be talking to him about it?

Ms. KULKA. I think I stated, sir, that I believed that the political ramifications were enormous for him, personally, and for the RTC. My beliefs were based on his discussion that he would rely on the advice and recommendations given to him by Mr. Ryan and myself. He was taking an unnecessary potential hit.

Senator DOMENICI. There's an understandable reason for pressure to be on that person who recuses himself.

Ms. KULKA. I wasn't commenting on that, sir, and I haven't analyzed that.

Senator DOMENICI. Let me ask, were you part of the briefing team for Roger Altman before he came to testify before us?

Ms. KULKA. Yes, sir.

Senator DOMENICI. Could you tell us what date that was?

Ms. KULKA. There were a couple of dates. I think there may have been a short meeting at the end of the preceding week, and I know there were at least two meetings. I believe they were late Monday night and late Tuesday night of the week in which the hearing was actually held.

Senator DOMENICI. Mr. Ryan, you were part of those, too?

Mr. RYAN. Yes, sir.

Senator DOMENICI. Do either of you know now or were you told when Mr. Altman came to testify before us—even though he had a note, which we have seen, that indicated what was talked about at the February 2, 1994, meeting, and one point on it was his recusing himself—do any of you have any information as to why he didn't tell us when he came before us on February 24, 1994? Has anything been said to you about that, any of you?

Mr. RYAN. Not to me.

Ms. KULKA. No, sir.

Senator DOMENICI. Did you understand at any point, Ms. Kulka, based on his conversations with you, that he was going to recuse himself?

Ms. KULKA. No, sir, I did not know what he was going to do.

Senator DOMENICI. He never indicated to you that he was?

Ms. KULKA. No, sir.

Senator DOMENICI. To you, Mr. Ryan?

Mr. RYAN. No. As a matter of fact, he indicated he was not.

Senator DOMENICI. Did he tell you where he got pressure from not to do that?

Mr. RYAN. He did not.

Senator DOMENICI. Do you know who he talked to before he told you that?

Mr. RYAN. No. No, I don't.

Senator DOMENICI. When Mr. Altman came before us, before the Senate Committee, he indicated that the principal subject matter of the February 2, 1994, briefing did not include a discussion of recusal. Are you familiar enough with that meeting to tell us whether you remember it differently?

Mr. RYAN. Are you referring to the meeting at the White House?

Senator DOMENICI. Yes. Do you know anything about it from them, or from any sources?

Mr. RYAN. I know nothing about it, other than what I've been told.

Senator DOMENICI. How about you, Ms. Kulka?

Ms. KULKA. That's the same case for me, sir.

Senator DOMENICI. When he came back, he did not discuss with you what took place?

Ms. KULKA. They did not discuss that it took place.

Senator DOMENICI. Much less, what.

Ms. KULKA. That's correct.

Senator DOMENICI. I know we've covered this one way, in a sense, but I just want to offer my own observations. Some have been saying, "Well, so what?" Even if all this insider information, some of which should not have occurred, but even if it did, I guess White House Counselor—he says, in a basketball term, "No harm, no foul."

From the standpoint of violating a confidentiality, is it required, in your opinion, Mr. Roelle, that there be proven—that it actually be proven that the confidential information was acted upon, or is it not a breach of confidentiality and ethics, as you know it, merely to divulge confidentialities?

Mr. ROELLE. In the past today, Senator, I have tried to refrain from making comments about what is legal in terms of criminality or what the legal interpretation of statutes regarding conflicts of interest have been because I don't believe I'm qualified. I will only say that criminal referrals are highly sensitive matters. They should not, in my judgment, be discussed outside of the agency. Rarely are they discussed, to my knowledge, unless it is with the FBI, the Justice Department, or another agency that is working with you in the processing of those criminal referrals.

Senator DOMENICI. Let me just ask, Mr. Ryan and Ms. Kulka, there's another premise in securities trading that says insider trading is illegal, even if no money is made. Are you familiar with that? Would that sound right in terms of your understanding of insider trading?

Ms. KULKA. It doesn't exactly comport with my understanding.

Senator DOMENICI. Mr. Ryan?

Mr. RYAN. I don't know.

Senator DOMENICI. Let me just ask, then, in closing, you really have no way of knowing where this insider information has ended up today, do you?

Mr. RYAN. That's correct.

Senator DOMENICI. Ms. Kulka, do you know where it has ended up?

Ms. KULKA. I don't know what it is. I therefore don't know—

Senator DOMENICI. Any of the insider information we've been discussing here, about the statute of limitations on the criminal refer-

ral cases and the fact that the case wasn't ready, we don't know who said what to whom after that was divulged to a number of people in the White House, do we? Do you know?

Ms. KULKA. No, sir, but I also know that the statute of limitations was discussed in correspondence we exchange with Members of Congress and I deny that we would not be ready. I thought we would try to be ready, and we could be ready to file if we had competent evidence underlying it.

Senator DOMENICI. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Mr. Chairman, I would say to my friend from New Mexico, one thing we do know in terms of where it ended up, is that massive amounts of information deemed to be confidential has appeared in the Congressional Record thanks to Congressman Leach who published an enormous amount of it there. There are lots of questions about who knew what, when, and how it got there.

I think the key issue before this Committee, and the Senator from New Mexico has touched on it, is the question of whether or not, regardless of whether there was an impact directly on the investigation, some improper judgment and actions may have taken place. The evidence, thus far, appears to be establishing that there was no impact on the case. In fact, to the contrary. That doesn't exonerate whatever actions or lack of actions might have been taken by somebody and the judgments that attached to those judgments or lack of them, with respect to whether that was good judgment or bad judgment or improper behavior or proper behavior.

The Committee is still going to have to make that judgment and obviously can't do so until we've heard from Ms. Hanson or Mr. Altman, but those are real questions for us. There's also the question of whether I think you're helping to set the stage for our ability to understand their testimony better. I just want to put that in the context here.

Senator DOMENICI. Would the Senator yield on that, just for an observation?

Senator KERRY. I've waited 3½ hours for a second round.

The CHAIRMAN. Senator Kerry does not wish to yield at this point, but we'll find a chance to give you the time you need.

Senator DOMENICI. Fine.

Senator KERRY. I'll be happy to have the colloquy off time if we can. I just want to try to understand a little better what the choice for the Committee is. It was your testimony that in no way did Roger Altman or Jean Hanson impact the course of this case. Is that accurate, Mr. Ryan?

Mr. RYAN. I think that's accurate. Yes, sir.

Senator KERRY. Ms. Kulka?

Ms. KULKA. That's correct.

Senator KERRY. Mr. Roelle?

Mr. ROELLE. That's correct, sir.

Senator KERRY. No positive action that they took, no judgment or directive that they issued, impacted your decisionmaking or your judgment with respect to the investigation of Madison/Whitewater. Is that correct?

Ms. KULKA. That's correct.

Mr. RYAN. Correct.

Mr. ROELLE. Correct.

Senator KERRY. And, indeed, you said earlier that the White House also never impacted you.

Ms. KULKA. That's correct.

Mr. RYAN. Correct.

Senator KERRY. So the only issue reverting to this Committee, at least on the evidence, you can conjecture, you can surmise, you can fantasize, but on the evidence that's in front of this Committee, we simply know that Roger Altman and Ms. Hanson took certain actions to communicate with the White House but had no impact on the case. We have to make a judgment about the appropriateness of those actions. I'd like to just examine that one step further.

Clearly, some people wanted Mr. Altman to not recuse himself. And, clearly, Mr. Altman himself was torn, so something was going on in his head about why he might or might not have stayed on this case. My question to you is, was that presence in any way a chilling effect on the agency, on you individually, or on anyone investigating it, Ms. Kulka?

Ms. KULKA. Mr. Altman applied no pressure. I felt no pressure from him on this matter. I didn't find that his instructions were anything more to do other than what I would have done without his instructions, which was to proceed normally.

Senator KERRY. Whether or not Mr. Altman was there, with respect to your responsibilities for this case, was, in effect, irrelevant. Was that your testimony?

Ms. KULKA. I don't know if it would have eventually been irrelevant. If he were the deciding person, he would have had that responsibility. But at that point, it had no impact.

Senator KERRY. Could Mr. Altman have directed you to tube this case, to just forget it?

Ms. KULKA. I would not be at the RTC if anyone were to do that.

Senator KERRY. Mr. Ryan?

Mr. RYAN. I agree with Ms. Kulka.

Senator KERRY. The only way he would have had an impact would be to, in effect, rule unilaterally on the case, conceivably, against your wishes.

Ms. KULKA. I have a right to concur or not to concur in any decision to proceed in a matter like this, and so it would presumably require a decision of the client plus the senior lawyer on it, and—

Senator KERRY. We're pledged to try to tell the full story of Whitewater to the American people, and there is obviously this whole issue of what happened with respect to Mr. Altman and the White House. But there are also issues with respect to the RTC and how we got here, and I'd just like to ask a few questions, in particular, about that.

When did Madison Savings & Loan go into receivership?

Ms. KULKA. Are you addressing—

Senator KERRY. Any of you who could answer that.

Ms. KULKA. I believe it was the early part of 1989.

Senator KERRY. That is when we set up the RTC. Correct?

Ms. KULKA. I think it went into receivership prior to the creation of the RTC and the FDIC was appointed as managing agent.

Senator KERRY. Is it not true that civil investigations or possible civil liability of Madison was investigated then?

Ms. KULKA. Yes, sir.

Senator KERRY. Did the RTC do a thorough job of investigating?

Ms. KULKA. I don't know, sir.

Senator KERRY. Do you, Mr. Ryan?

Mr. RYAN. This predates my arrival at the RTC. Much of that work, in the early days, was done by the FDIC, and it's my understanding that the FDIC did much of that work.

Senator KERRY. Mr. Roelle, the Bush Administration chose not to sue anyone in connection with the failure of Madison, didn't it?

Mr. ROELLE. No, sir. The Bush Administration didn't make those decisions. The RTC did.

Senator KERRY. The RTC. But during that period of time, in 1992 is what I'm saying, before Clinton became President, this case was ruled on, was it not?

Mr. ROELLE. I believe it was before 1992, but I'm not sure.

Senator KERRY. The statute of limitations ran, did it not?

Mr. ROELLE. I don't know, sir.

Senator KERRY. Do you remember, Ms. Kulka?

Ms. KULKA. I think there were suits in progress against professionals, such as accountants and other people, that were brought by the agency. I believe they were probably carried forth primarily by the FDIC before there was a separation of legal divisions at the end of 1991. There were certainly no cases brought against directors and officers.

Senator KERRY. No case was brought by the RTC in 1989, 1990, 1991, and into 1992 as of March 1992. Correct?

Ms. KULKA. No case against directors and officers.

Senator KERRY. The case was effectively dead. Is that accurate?

Ms. KULKA. I believe it was closed.

Senator KERRY. The statute of limitations had run once and it was extended, but it was still effectively closed.

Ms. KULKA. That's correct.

Senator KERRY. In March 1992, during a Presidential race, an article appears in The New York Times. Correct?

Ms. KULKA. I'm sorry, I don't know the exact dates of any of that.

Senator KERRY. Mr. Roelle, do you remember that?

Mr. ROELLE. I know there were a number of articles during that time. I'm not sure what date they were.

Senator KERRY. Do you recall an article on March 8, 1992?

Mr. ROELLE. No, sir, I don't recall the specific article on March 8, 1992.

Senator KERRY. Do you recall that the Madison case was opened, reopened according to the testimony of Mr. Ryan, the next day after The New York Times article? Do you recall that?

Mr. RYAN. No, sir, I don't. Are you referring to the criminal investigation?

Senator KERRY. Yes. I'm referring to any investigation. It was a closed case. Was it not a closed case?

Mr. RYAN. I don't know that. That action predated my arrival at the RTC.

Senator KERRY. But you don't recall—let me refer you to page 74 of your deposition:

Decisions hadn't been made yet about what to do. This was, as I remember, in kind of the formative stages, the original closure memo had been done. The case

had been closed before. I don't know if you're aware of this, but the decision had been made sometime back in 1990 or 1991 that there wasn't a cost-effective case at Madison, so it had to be reviewed in light of new information.

Do you recall saying that?

Mr. RYAN. Yes, sir.

Senator KERRY. The new information was The New York Times article?

Mr. RYAN. I think we're confusing the criminal referrals with the RTC civil case. I was referring there, to the reopening of the civil case in light of the extension of the statute of limitations that occurred in the Completion Act. That did occur.

Senator KERRY. But that's in 1993.

Mr. RYAN. That's in 1994, actually.

Senator KERRY. Do you have a recollection at all of why this case was reopened in 1992?

Mr. RYAN. I wasn't there.

Senator KERRY. Do you, Ms. Kulka?

Ms. KULKA. I think, to the extent that anything was done, sir, it would not be with respect to the civil investigation. It would have been, if anything was done, with respect to the criminal referrals.

Senator KERRY. I understand that, but what I am asking you is the standard, at that point in time, for a judgment about a civil case was some evidence of negligence or gross negligence. Correct?

Ms. KULKA. That was, yes, the minimum standard.

Senator KERRY. And for a criminal case, some evidence of criminal behavior. Correct?

Ms. KULKA. That's correct.

Senator KERRY. The New York Times article had no evidence of criminal behavior that I had read. Did you come across any, Mr. Roelle?

Mr. ROELLE. No.

Senator KERRY. The question has to be asked why, if there's no question of money being lost in terms of fraud, intentional misconduct, or unjust enrichment, which is the standard we applied when we extended the statute, by March 8, 1992, The New York Times article appears. On March 9, 1992, Jean Lewis is suddenly reinvestigating. My question to you is, was it simply because the name Clinton appeared in this that the RTC reopened the case?

Mr. RYAN. Senator, I don't know. That occurred long before I arrived at the RTC.

Senator KERRY. Has it occurred to you it was why this case was reopened?

Mr. RYAN. It hasn't.

Senator KERRY. Ms. Kulka?

Ms. KULKA. I'd asked some questions about whether it was usual procedure to pursue criminal investigations of matters that had already been closed from a civil point of view, and I've gotten a variety of answers, especially in this case, since it was reviewed and rereviewed several times. From that point of view, I don't understand the procedure that was followed, and I've never gotten an answer that has made it clear to me.

Senator KERRY. Mr. Roelle?



Mr. ROELLE. I wasn't aware that there was an investigation until I was notified on the day that I notified Mr. Casey.

Senator KERRY. I'd say to my colleagues on the Committee that this is something I find, personally, extraordinarily disturbing and extremely important with respect to this case. There were at that time, and I want to come back on my next round—my time is up—

The CHAIRMAN. It is, and I'm going to yield next to Senator D'Amato. I'm going to give you a chance to make your final point.

Senator KERRY. The point I'm making, Mr. Chairman, I have Jean Lewis' chronology. I assume it's hers according to most accounts of The Washington Post and elsewhere. It's what Congressman Leach put into the Congressional Record. Between the dates of 3/9/92 and 3/23/92, during a Presidential race when Mr. Clinton was a candidate, her own statement says, "No mention was found of any Whitewater relationship with MGSL, Madison Guaranty Savings & Loan." Notwithstanding that, this incredible investigation goes on. Nobody has even heard of Whitewater. There's no allegation of any wrongdoing that's criminal or civil under the statute, and yet the Clintons are investigated.

A few months later, there's a criminal referral which finds its way, we learn today for the first time publicly, to the White House. C. Boyden Gray called. You can make an argument. I have a long chronology here, with which you can go back to November 1990, when a fellow by the name of Sheffield Nelson, who's a Republican, is running for Governor against Democrat Bill Clinton. He happened to be somebody who had major investments, along with James McDougal, in Madison Guaranty and is cited as a source in USA Today of the first article in The New York Times linking the two, McDougal and Clinton.

In March, 1 day later, the RTC opens the investigation and goes to extraordinary lengths, according to the LA Times, to trace the transaction after finding no ties in the additional document reviews. In September, there is a criminal referral mentioning the Clintons that's sent—

Senator D'AMATO. Mr. Chairman, I have not said anything now—

Senator KERRY. I'm just—

Senator D'AMATO. It's well, well past the time and well past scope. But I believe we have to try to be accommodating. I've not said anything. I think we've gone well beyond accommodation. People want to conjecture. These witnesses have tried to answer the questions as they relate to them and, now, the Senator is going into a colloquy. The Senator has gone well beyond his time and well beyond the scope.

Senator KERRY. It's not well beyond the scope.

Senator D'AMATO. I think it is.

Senator KERRY. It's not, because there's a second phase of this investigation and what I want to guarantee is that we look thoroughly at what happened in Whitewater. The Senator from New York has spent hours on the floor of the Senate asking us to look at Whitewater. I want to look at Whitewater.

Senator D'AMATO. Good.

Senator KERRY. I want to make sure we look at every aspect.

Senator D'AMATO. I agree with my colleague. I have no problem, but you've—

Senator KERRY. I want to look to make sure my colleagues agree that we ask why the Republican U.S. Attorney in Little Rock was receiving criminal referrals from the RTC.

Senator D'AMATO. I want to know why the Democratic U.S. Attorney in Little Rock refused to recuse herself when she should have. If we're going to start making political statements, and that's what my friend is engaged in, then we'll start and I'll respond.

Senator KERRY. Mr. Chairman—

Senator D'AMATO. Why didn't that take place? Why shouldn't Paula Casey be here? I thought we set up ground rules in which we decided—

Senator KERRY. Mr. Chairman.

Senator D'AMATO. —there are certain areas, as it relates to the Justice Department et cetera, we wouldn't go into. Now, my friend finds it convenient to go into it. If you want to ask about the U.S. Attorney, the Republican U.S. Attorney, I want to know about the Democratic U.S. Attorney and why a friend of Bill and Hillary Clinton took that case and didn't recuse themselves immediately.

Senator KERRY. Mr. Chairman—

The CHAIRMAN. Gentlemen, let me ask you both to suspend for a minute. If I may say, with respect to the time clock, because we've been trying to honor that—

Senator KERRY. I can wait until the next go around.

The CHAIRMAN. That was going to be my next point. I think there are two questions here. One, is that it's fair to say that we're well over the time period, and so I think there's a concern there, but second, on the issue of scope, and you're certainly entitled to express an opinion, everybody around the table has and so—

Senator KERRY. Mr. Chairman—

The CHAIRMAN. —I want to protect your right to do that. I think what we need to do now, because this time period has run almost twice what the normal one is—

Senator KERRY. Mr. Chairman, all I'm trying to do, very simply, is get it all out, all of it. I'm simply asking—I'll ask the tough questions of Mr. Altman. I'll ask the tough questions of Jean Hanson. I think you'd know that I would press that this investigation be as thorough as possible. I'm simply suggesting that there are other unanswered questions that, in light of the first time public testimony today, another White House knew of this and that this appeared to be a special case from day one. You want to know why, and that's all I'm suggesting in fairness. Both sides ought to get to the bottom of this.

The CHAIRMAN. Let me just say to you, I have the same interest in these facts as you do, and I'm sure other Senators do as well. One of the problems we face here, as the Senator from Massachusetts knows, is that we're operating under a Senate resolution that defines very specifically what we are here to look at and so—

Senator KERRY. There is another phase.

The CHAIRMAN. I understand and I—

Senator KERRY. I want to guarantee that phase 2 is thorough.

The CHAIRMAN. I've listened patiently to the Senator from Massachusetts and I want to continue to. We can take that question

up. What I do want to say, because I've tried in every instance to allow people extra time when they've sought it, is that I expect everybody to stay in bounds on that, no matter how strongly they feel about the question they're raising or how important it may be. I think we've got to do that. Otherwise, we're going to have a situation where we're not going to be able to enforce any ground rules. I know the Senator understands that.

Senator KERRY. Absolutely.

The CHAIRMAN. He'll have another opportunity to make his comment on that area because I don't intend to be arbitrary to anybody in terms of the points they feel compelled to make. Let me yield to Senator D'Amato now.

Senator D'AMATO. Mr. Chairman, I think my colleague, Senator Domenici from New Mexico, had some points and questions he wanted to make. I'll yield them to you, Senator.

Senator DOMENICI. I'll yield them to you.

Senator D'AMATO. Thank you. Mr. Chairman, first of all, I want to express my thanks to the witnesses. I find several things rather extraordinary. I find it absolutely inconceivable that we can justify making confidential criminal referrals of anybody available to anyone, least of all people who may be mentioned as witnesses, and particularly—if you might say, well, there was a matter involving that person as a witness, and that person is in some prominent position and we're fearful of the leaks, so to be fair—what about the other eight referrals? What about those referrals that did not pertain to them?

Second, I find it absolutely incredible and incredulous to come to the assumption that there was no harm because there was no foul. Mr. Roelle, do you know whether or not, as a result of divulging any of this information to people at the White House, people may have been tipped off in the vernacular, evidence was destroyed, hidden, or altered? Do you have any knowledge whether that did or did not happen?

Mr. ROELLE. No, sir.

Senator D'AMATO. You couldn't have. Ms. Kulka, do you know whether or not that happened?

Ms. KULKA. No, sir, I don't know, precisely, what information you're referring to.

Senator D'AMATO. The fact of those criminal referrals, whether, as a result of that information being given, people who would be targets, et cetera were tipped off. You don't know whether or not that happened?

Ms. KULKA. That's true, sir, and several—

Senator D'AMATO. That's what I want to hear. This business about you not altering your conduct, no one charged you with altering your conduct. I understand that. Mr. Ryan, do you know, as a result of this, whether or not some of the people who may have been mentioned in here may have been tipped off and whether or not evidence that may have been possible to subpoena no longer existed? You don't know whether it happened or not and I don't know whether it happened or not and that's the reason that this is information that should not be disseminated. That's why.

Let me make a point and a distinction as it relates to our Banking Committee staff making inquiries as it related to the RTC. We

wanted to ascertain because there was some question and confusion as to when the statute of limitations would run. Is that improper?

Ms. KULKA. The question is never improper, sir.

Senator D'AMATO. We wanted to ascertain whether or not it was the usual policy to entertain tolling agreements. By the way, I said this publicly. I said it on the floor of the Senate. I said it to this Committee and, as a matter of fact, we were able to get some information which we were having difficulty getting because, at a public hearing, when I complained about not getting the kind of response we needed and about getting perfunctory letters, the Chairman said, "Listen, that shouldn't be, let's get some information." That is public information that people are entitled to.

Ms. KULKA. Sir, early on, I had a lot of concern about whether we should be responding or talking about what our opinion was when the statute ran. I think it was Mr. Altman who kept pressing me to try to do that, to try to respond to you.

Senator D'AMATO. I had written him a number of letters. As a matter of fact, I think I wrote him a letter from nine Senators asking him to be responsive. We finally got that. There was no attempt to find out who was named, what was in the criminal indictment or in the criminal referral, or what the nature of the action was, but rather if there would be preservation of the taxpayer's rights. We were told that they would handle this case in a normal manner.

Last, but not least, I'm going to say, if we buy off on the proposition that wherever there's a press inquiry made, that therefore, whoever it is, whether it's the U.S. Attorney, whether it is the RTC or any independent agency, that they can then break the rules against public disclosure and go to the very person whose name may be mentioned, we've set a whole new standard, and we have no confidentiality.

Because of the fact that it was two people at the White House and the fact that Mr. and Mrs. Clinton were mentioned as witnesses, that's the last place, then, there should have been disclosure as it relates to this. When Mr. Roelle would get a question as it relates to what would happen, his response in these kinds of cases is no comment. Isn't that correct?

Mr. ROELLE. Yes, sir.

Senator D'AMATO. Mr. Katsanos?

Mr. KATSANOS. Yes, sir.

Senator D'AMATO. If someone called you and said, "John Jones, we understand, is a witness or to be named as a target or a possible defendant," what do you say?

Mr. KATSANOS. I would say I wouldn't confirm nor deny it.

Senator D'AMATO. That's right, and that's the standard that should have been employed. I thank the Chair.

The CHAIRMAN. I want to just inquire of Members on both sides, because I want to be able to give adequate notice to Ms. Hanson, who's due up here next, and to allow at least a brief period for people to have a late lunch who haven't yet had one, so let me go right around the table—how many people seek an opportunity—

Senator MOSELEY-BRAUN. Thank you, Mr. Chairman. I just have one question.

The CHAIRMAN. I'll come to you next, then, if I may do that. Let me inquire, so I can see how many people still wish to be recognized. Anybody else on this side? I don't see any indication. Do you want to be recognized?

Senator BOXER. I reserve my right to ask a question. I don't have any at this moment.

Senator KERRY. No.

The CHAIRMAN. Senator Kerry does. Senator Shelby does.

Senator Moseley-Braun, you're next.

Senator MOSELEY-BRAUN. Again, I've refrained from asking questions of this panel in the interest of moving along with this hearing. I have a point of clarification with Ms. Kulka. I think it's important for the record to be clarified.

In your conversation with Senator Shelby about the impact of Rule 11 on your decisionmaking, it was my understanding that as of the February 1, 1994, meeting, no decision had yet been made on whether there was even a case to be made or whether to sue Madison. Is that correct?

Ms. KULKA. That's correct.

Senator MOSELEY-BRAUN. The impression was not just a matter of whether the case should be filed or was in shape for filing or comported with the technical requirements of the rule, you hadn't even reached the question of if there was a case to be made.

Ms. KULKA. That's correct.

Senator MOSELEY-BRAUN. I think it's important that, for the record, that clarification be made. Mr. Chairman, I have no further questions. Thank you.

The CHAIRMAN. Very good. Senator Kerry, you're the only other Member that I know of that seeks recognition now. Senator Boxer is reserving her right.

Senator KERRY. Thank you very much, Mr. Chairman. I will try not to try my colleague's patience or go too long. This panel, particularly, is important for a number of reasons to this Committee, generically, and I want to cover a couple of bases if we can. I would like to just explain to the Senator from New York and others precisely why I think it's so important. I am not diminishing one iota what I think the Senator from New York has accurately raised as a very significant issue here.

I do not accept the notion that because there is perhaps a foul, there is automatically no harm. I don't accept that, and I think the Committee, as I've said previously, is going to have to come to grips with the judgment and actions that ensued with respect to communications between Treasury and White House, and the terrible problem of the double hat that Roger Altman wore, one that I think many of us felt all along was great trouble for the RTC as well as, potentially, for Treasury. The reason I raised these other issues is because I don't think you can understand Whitewater and put this entire thing in its proper perspective, if we don't ask questions about the early part and understand how we got here. I'm simply raising these questions for my colleagues to be sure that we in the second round, as we go further, are sure to cover those bases.

What I'm anxious to get from colleagues is a consensus on the Committee that we ought to ask questions about this early part in order to properly tell the story to the American people. It troubles

me that a Democratic U.S. Attorney behaves one way. It troubles me that a Republican might behave one way. I'm sure my colleagues agree with me. When I read, that during the middle of an election, at the same time you had the passportgate issue that greatly embarrassed the Administration because of the leaks about the investigation that was constructed, you simultaneously have pressure on U.S. Attorneys with respect to the criminal referrals, that came out of a New York Times article, that came out of a leak, then my smell test begins to react and say something is going on here. That is all I'm suggesting, and I say very respectfully to colleagues, we should understand that.

The CHAIRMAN. May I just respond to Senator Kerry. You put that issue on the table and I've been trying to think of how, with the limitations we've been given, that kind of an issue should be properly dealt with because I think it does pose another question. I will say, because there will be follow-up hearings, that Senator Mitchell has indicated there will be a later phase beyond the scope of what we're asked here to do. That resolution that would empower any later phase is yet to be written. It would seem to me that any issue, such as the one you raise now or that anyone else might raise, would properly be the subject for a discussion as to what the scope of a follow-up resolution might be. I think that would be the time at which you'd mark out the boundaries of what was or was not going to be looked at in some thorough investigative way. I certainly think you're within your rights to state your opinion now on the general observation—

Senator KERRY. I appreciate that, Mr. Chairman. The reason I do it is because at that very moment is when the attention shifted. What this panel has acknowledged, was a different treatment of an S&L from normal back in 1992. At that very moment, you had what are now known as the forgotten 50 Texas S&L's, some of whom lost \$2,422,000,000; \$1,474,000,000; \$1,389,000,000. Some of them lost 141 percent of their net worth. One lost 892 percent of its net worth; another 216 percent of its net worth. Not one suit was brought. Not one subpoena was issued. Relative to most of those, Mr. Chairman, Madison is way down the line.

If you're sitting in the RTC setting priorities, The New York Times creates a priority and all of a sudden, in these 193 institutions that were ahead of Madison, nothing happens. It raises a very serious issue about the RTC, Mr. Ryan. You know that because we've been communicating for months.

I simply raise this, Mr. Chairman, because I would like to ask my colleagues in this Committee for a consensus that we ought to be—serious allegations have been laid out by people within the RTC that the RTC is losing billions of dollars, that major opportunities for recoupment for the taxpayers are being passed up.

You know this is not new to you because I mailed you on this. I think it is vital for this Committee to see the internal documentation of the RTC with respect to that issue, and I simply want to put that in front of the Committee. I know it's outside of this, but it is not really outside of this. It is very much central to what has happened here, and my hope is that the Committee will press that issue with the RTC. My hope is that we can have the documentation of Mr. Ryan.

The CHAIRMAN. I want to indicate, after we've heard from Senator Boxer, unless we open a whole new direction here, that I think we're within 5 minutes of finishing with this panel, in which case we would excuse the panel, take about 45 minutes as a break period, and then plan to have Ms. Hanson here. I'll just tell everybody that, so you can think about it.

Senator Domenici, are you going to seek additional time now? I want to call on Senator Boxer.

Senator DOMENICI. No, no. I would ask for 30 seconds after she's finished.

The CHAIRMAN. Actually, in rotating back and forth, if you wanted to go now, you're entitled to do so.

Senator DOMENICI. All I wanted to say to my good friend from Massachusetts, I find—I'm not stating right here and now that I have objection to what you want us to consider or that I agree with it, but I would just like to make an observation. It would seem to me that, since we are very limited in scope and every Senator may have a different thing that they would like to be considered in the next phase, I'm willing to breach the scope, and I'm not saying you did, my friend. A way to breach the scope is to lay before the Committee what we would like to be considered later on, with the justification being that we're just trying to make a point that we want to make sure the investigation covers this.

We could pick out things that we are worried about in the third phase, when our Special Prosecutor is finished, and we could say every day, "Well, we want to just talk about this because we want to make sure it's in the next investigation." I would hope the Chairman would urge that all of us resist that. That's not what we're supposed to be doing here. To that extent, I pledge myself not to do that and I hope everyone else does.

Senator KERRY. Mr. Chairman, my time hadn't actually expired. This is within the scope that has been deferred by the Special Prosecutor, so I'm simply trying to guarantee what is already within the scope—I'm not trying to broaden it—this is actually within the scope already deferred. The reason I bring it up so strongly today is because Mr. Roelle has informed us and confirmed that the prior White House had a direct contact with respect to criminal referrals at a time that is very troubling. I'm simply reacting to the evidence that has come forward in putting two and two together and suggesting that we ought to pursue it. It is within the scope. I would then defer to the Chairman.

The CHAIRMAN. Let me just say that, the scope of future hearings as opposed to this set of hearings, I think, is yet to be defined. We'll take any and all suggestions, and we'll give those to the next Chairman, Senator Sarbanes, and that will happen, one suspects, on his watch. In any event, Senator Boxer—

Senator BENNETT. May I express the hope that it's Senator D'Amato.

The CHAIRMAN. That's also a possibility.

Senator BOXER. Your hope is so noted. I do want to talk a tiny bit more about the briefing of Senator D'Amato's staff, which I never said was inappropriate. I want to make it clear, I don't know if it was inappropriate because I wasn't there. But, it took place and, Mr. Ryan, you testified it was rather unprecedented that it

would be, as you put it, called specifically for you yourself to come to such a meeting.

Was there anything else discussed there? In other words, Senator Kerry talked about all the savings and loan's that lost billions of dollars for the taxpayers. Was there any discussion at that meeting by Senator D'Amato's staff about any other savings and loan, let's say in New York or Texas or California, or anywhere where there was a bigger loss to taxpayers, a discussion about the statute of limitations, tolling agreements, et cetera?

Mr. RYAN. No, there was not. As I recall the conversation, it dealt principally with how the RTC was going to respond to information requests submitted by Senator D'Amato relative to Madison.

Senator BOXER. It was just about Madison.

Mr. RYAN. That's correct.

Senator BOXER. Nothing else was raised in that meeting.

Mr. RYAN. That's all.

Senator BOXER. How long did that meeting last, approximately?

Mr. RYAN. Twenty minutes, half an hour, something like that.

Senator BOXER. I would like to ask, Mr. Roelle, did you yourself ever see the criminal referrals or did someone just call you and summarize them?

Mr. ROELLE. No, I've never seen them.

Senator BOXER. Did Ms. Hanson ever see the criminal referrals, as far as you know?

Mr. ROELLE. No, ma'am.

Senator BOXER. Has Mr. Altman ever seen the criminal referrals, as far as you know?

Mr. ROELLE. No, ma'am.

Senator BOXER. My last question is to Ms. Kulka. As we all stated, you have a reputation as being a tough lawyer, and I think people on both sides have expressed, frankly, their admiration for that. Who hired you?

Ms. KULKA. Mr. Altman.

Senator BOXER. Did he ever discuss Madison with you before you were hired?

Ms. KULKA. No.

Senator BOXER. Did he ever indicate he wanted you to go easy on the Madison case at any time?

Ms. KULKA. No.

Senator BOXER. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator D'AMATO. Mr. Chairman.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Let me go to the actual notes of the legislative aide who was there on behalf of Treasury and with Mr. Ryan, was Peter Knight. He said he wanted to express his concern that it not be used to show it was a briefing on Madison. I didn't prepare this. This was prepared by them to say exactly what it was. Further, Peter Knight wants to be sure that this meeting is not characterized as a briefing on Madison.

I could go on—I want you—again, Peter Knight's memo clearly, clearly states that. We were interested, and the record will show, on the floor of the Senate on numerous times, here at the Commit-



tee in open public hearings, in open letters, that I did not hide. The communications were open. We wanted to know whether and when the statute of limitations was going to toll. There was a question. Some thought it might be as late as August. I think you'll ascertain that was a question Mr. Natter, our Counsel, raised. He was told, eventually, in a telephone conversation because counsel wasn't sure at that time, or at least Mr. Ryan wasn't sure at that meeting, when it could toll.

For the record, several days thereafter, we had a conversation and in that conversation they said they thought the statute of limitations would expire on February 28, 1994, or in early March. I was determined to see to it and I'm proud of the fact that we offered, and were able to get, legislation passed which extended the statute of limitations. It took us beyond the question of whether or not tolling agreements would be obtained, whether or not people's rights would be protected, and whether or not the matter was going to be handled in the traditional manner.

I'm very proud of that, and I think we have to be very clear as to exactly what we got. We got nothing other than what we were determined to get and what was right and proper information as it related to when this matter would go beyond the ability of the RTC to bring a suit, if one was necessary. I think that more than adequately states it. I'd like to put into the record all of the supporting documents from Peter Knight to Ben Nye, from Jean Hanson as it relates to conversations with Peter Knight, which very accurately state the facts as I have inartfully—and also my communication to Roger Altman on January 10, 1994, in which we express our concern. I'll just summarize our concern that the running of the statute of limitations may prevent the final resolution of all allegations relating to Madison Guaranty. That letter was signed by eight Senators and Congressmen, and I'd like to put that in the record as well.

The CHAIRMAN. Without objection, we'll put all of these documents into the record at this point.

Senator Sarbanes.

Senator SARBANES. Could I make the observation, Ms. Kulka, that if your reputation of being a very tough lawyer wasn't generally known before this hearing today, it's certainly well-known now as a consequence of this hearing.

Ms. KULKA. Thank you, sir.

The CHAIRMAN. Senator Shelby.

Senator SHELBY. I want to say, to all four of them, I believe today has shown they're very professional. If they would have had the leeway to run the RTC by themselves, we wouldn't be here today.

The CHAIRMAN. I think we've concluded with this panel. I want to thank you all for your appearance today, and for the testimony you've given to us. The Committee will recess now and resume at 4:30 p.m. with Ms. Hanson. The Committee stands in recess.

[Recess.]



## **AFTERNOON SESSION**

The CHAIRMAN. The Committee will come to order.

Let me invite everyone to find a seat here in the Committee room and we'll start in a moment.

Earlier in the day, when we began, I introduced all the witnesses we would be hearing today. I wanted just to briefly repeat the introduction of the witness that we have before us now, and that is Ms. Jean Hanson who is the General Counsel of the U.S. Department of the Treasury. By way of background, she was previously employed at Fried, Frank, Harris, Shriver, and Jacobson, a noted law firm, from 1976 until March 1993. She served as a consultant to the Department of Treasury from March 1993 until June 1993 when she was confirmed into her present position, directly, by the Senate.

Let me now ask you to stand and raise your right hand, if you would please. Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

### **STATEMENT OF JEAN E. HANSON, GENERAL COUNSEL, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Ms. HANSON. I do.

The CHAIRMAN. Very good. Ms. Hanson, let me inquire, do you have a statement you want to make at the outset?

Ms. HANSON. I do, sir.

The CHAIRMAN. Let me also suggest that you pull the microphone a little closer to you so that you can be heard by everyone in the room. And when you are ready, you can go ahead with your statement.

Ms. HANSON. Is this fine?

The CHAIRMAN. Yes. Just speak loudly so you can be heard.

Ms. HANSON. Mr. Chairman, Members of the Committee.

Senator KERRY. We can't hear.

Senator GRAMM. We need the mike right up close.

The CHAIRMAN. Let's try to tune it up a little bit, too, if you can.

Ms. HANSON. Is that better?

The CHAIRMAN. Yes, that's better. Just try to speak into it as much as you can, at the same time trying to get situated comfortably. I know you have a statement to read.

Ms. HANSON. Thank you. Mr. Chairman, Members of the Committee, I am Jean Hanson, General Counsel of the Treasury Department. I have been privileged to hold that position since June 1993. I am testifying today pursuant to Senate Resolution 229 exploring communications between Treasury officials, including me, and White House personnel relating to Madison Guaranty Savings & Loan.

Out of respect for this Committee's work and for the investigation that preceded this Committee's work, I have refrained from speaking with reporters about this matter. There have been many recent leaks of my testimony and documents, which include numerous misstatements and mischaracterizations. I welcome this opportunity to testify publicly and to speak for myself. I hope you will make your judgments based on my testimony today.

I have tried my best to recollect everything that occurred about this matter. I have also reflected on the reasons for these conversations. I know that these conversations violated no law, no rule, and no ethical standard. I also know that they were appropriate and that they furthered legitimate governmental interests.

Before I turn to Madison, I want to tell you a little about myself. For nearly two decades before coming to Washington, I practiced law in New York and worked on complex corporate transactions. I came to New York from Minnesota, where I was born, and where I was reared to do things in a straightforward, Midwestern style: Honestly and by dint of hard work. I am not a "Beltway Insider," I am not a political person.

Prior to coming to Washington, I had no contact whatsoever with the President or the First Lady. I did not campaign for them, or for any candidate, and I do not owe my Treasury appointment to political activism. I was recruited for my position. My husband is a Republican—until recently. I did not know Secretary Bentsen before I accepted his offer to become Treasury General Counsel. Indeed, I didn't know anyone at Treasury or in the White House. I accepted Secretary Bentsen's offer for one reason. I wanted to contribute to the important work of the Government, and give something back to my country. I still do.

At the outset, I would like to address my role in RTC matters. As Treasury General Counsel, I am charged with carrying out duties and assignments given to me by Secretary Bentsen and Deputy Secretary Altman. I fulfilled assignments relating to the RTC given to me by Mr. Altman and, at times, Secretary Bentsen, but at no time did I ever hold any position at the RTC nor have I ever acted as RTC General Counsel.

To say the least, the RTC is an unusual entity and people often misdescribe it and its functions. For example, it is a corporation, not an agency, except for limited purposes. It is not a regulatory body because it doesn't regulate anything. It is not independent. The RTC CEO serves solely at the President's pleasure, unlike independent agencies such as the SEC and the CFTC. It has a finite life span, scheduled to end next year. Except for its CEO, it has no employees and must carry out its functions by utilizing FDIC and Executive Branch personnel, including Treasury employees.

As Interim RTC CEO, Mr. Altman had statutory authority to seek the assistance of Treasury personnel on matters related to RTC functions. And, as Deputy Secretary of the Treasury, he had the authority to grant the assistance of such personnel. Mr. Altman asked me to assist him with policy-related and other matters involving the RTC, and I did so. Mr. Altman undertook to serve two jobs for a limited period. He was entitled to all the assistance he

could muster. It was entirely appropriate for me to assist him in any legitimate way he requested.

I now turn to Madison and what I learned, how, from whom, and to whom I imparted that knowledge. Given time constraints, I will not cover every meeting or conversation that I discussed in my deposition before the Committee. Rather, I address the principal contacts regarding Madison in which I was involved.

To put this into context, it is important to understand that there were two distinct phases to the RTC's consideration of Madison. First, was the preparation of multiple criminal referrals relating to Madison that I ultimately learned were forwarded to the Justice Department. Second, was the consideration by the RTC of potential civil claims that might be brought against various persons who had had some involvement with Madison. From the last few days of September 1993 through the second week of October 1993, the limited discussions in which I participated related to concerns about leaks to the press of the Madison criminal referrals.

In December 1993, the passage of the RTC Completion Act revived the previously lapsed statute of limitations for many potential civil cases, including Madison. From mid-January 1994 until the end of February, the limited discussions in which I participated related to the statute of limitations and other procedural matters surrounding possible civil claims relating to Madison.

On September 27, 1993, RTC Senior Vice President, William Roelle, called to tell me that nine criminal referrals related to Madison were on their way from the RTC in Kansas City to Washington, after which they would be forwarded to the Justice Department. I clearly understood from Mr. Roelle that the referrals and the information about them that Mr. Roelle imparted to me would be leaked to the press when the referrals arrived in Washington, which, in fact, did occur close in time to Mr. Roelle's call to me. Mr. Roelle summarized the referrals and said that President and Mrs. Clinton were mentioned as possible witnesses. I reported this conversation to Mr. Altman who tasked me to advise Bernard Nussbaum, then Counsel to the President, of the imminent press leaks. On September 29, 1993, I did so after a meeting that both Mr. Nussbaum and I had attended to discuss the Treasury's report on the handling of the Waco situation.

A few observations are in order. First, before Mr. Roelle's unsolicited call, I had no prior knowledge of Madison other than a news story that had appeared during the campaign. Second, my task, to alert White House Counsel Nussbaum to imminent press leaks so that he could deal with them intelligently, was entirely appropriate and necessary. The existence and the substance of the criminal referrals was leaked and the Administration did have to deal with the ensuing inquiries. Third, no preferential treatment or benefit was intended for anyone and, as far as I know, no one received preferential treatment. The President and First Lady were not the subject of any proposed governmental action. They were merely possible witnesses.

It has been reported that Mr. Altman does not recall tasking me to advise Mr. Nussbaum of what the RTC professional staff believed would be imminent press leaks. In my view, the difference between Mr. Altman's and my recollections on this point is not sig-

nificant. If I had thought it was inappropriate to brief Mr. Nussbaum, I would not have done it. I take full responsibility for the decision to do so. What I think is significant is that Mr. Altman and I agree that it was entirely appropriate to brief Mr. Nussbaum about the expected leaks.

When the search was done to locate documents responsive to the Independent Counsel's subpoena, a September 30, 1993, memorandum I prepared was found in my secretary's chron files as well as in my own RTC files. That memorandum, addressed to Mr. Altman, had attached to it a document confirming that the referrals had been leaked to the press and reported that I had spoken with Mr. Nussbaum and Mr. Sloan, had briefed Secretary Bentsen, and inquired of Mr. Altman whether there was anything else he thought we should be doing regarding these press leaks. I do not have an independent recollection of writing this memorandum, but I am confident that I prepared it. It bears my initials and is the kind of memorandum I write to report back on matters that I have been tasked to do.

Although I have no recollection of having briefed Secretary Bentsen as the memorandum states, I am sure that my memorandum accurately reflects that I did. The memorandum does not specify the subject of the briefing. I may have told Secretary Bentsen about the meeting or, as is more likely, I may simply have alerted him to the fact that there would be press leaks relating to the Madison criminal referrals, and the nature of the anticipated leaks.

On October 14, 1993, I attended a meeting at the White House arranged either by Mr. DeVore or Mr. Steiner, two senior Treasury officials, to discuss the handling of press inquiries Mr. DeVore had received with regard to the Madison criminal referrals. Mr. DeVore, at the time, was Treasury's Assistant Secretary for Public Affairs. The issue I recall Mr. DeVore saying the press had raised then was whether the referrals were being held up at the RTC and not being forwarded to the Justice Department. Implicit in the question was a suggestion of misconduct on the part of the Treasury or the White House officials.

I have no doubt that the meeting was appropriate. First, the press inquiries Treasury had received confirmed that information about the criminal referrals had been leaked now to at least two reporters, a significant breach of Government regulations that gave the Administration officials no choice but to be prepared to respond. Indeed, I was struck, when the articles in question appeared in the press at the end of October and early November, by just how much more about the referrals the reporters know—knew than I ever did. Second, the inquiry was based on false information that cast the Administration in an inaccurate and decidedly prejudicial light, which the Government had an obligation to correct.

The CHAIRMAN. Let me just stop you for one moment and I excuse myself for doing so, but some people are still having a hard time hearing you. If you could pull the mike a little closer still—can you just—can you or is it stuck there?

Senator GRAMM. Put your book on top of it.

Ms. HANSON. I'm sorry?

Senator GRAMM. Put your notebook up on top of it. That way, you can pull it closer to you.

Ms. HANSON. Thank you.

Again—better?

The CHAIRMAN. It's—I think so.

Ms. HANSON. Again, there was no intent, and certainly I know of no effort, to interfere in any way with the referrals which, I believe I learned subsequently, had already been forwarded by the RTC to the Justice Department.

By mid-January, congressional attention became focused on upcoming deadlines under the statute of limitations for the filing of any civil claims the RTC might bring in the Madison matter. At the time, civil claims involving Madison had to be filed on or before February 28, 1994, unless the RTC either decided not to pursue any civil claims or obtained tolling agreements from parties who might be the subject of a civil suit.

Various Members of Congress were pressing the RTC to obtain tolling agreements if the RTC could not complete its Madison investigation by February 28, 1994. In the face of the fast-approaching deadline, Mr. Altman considered whether he would recuse himself from substantive decisionmaking regarding Madison-related civil claims.

On February 1, 1994, Mr. Altman and I briefed Secretary Bentsen on the operation of the statute of limitations in the Madison matter. In that meeting, Mr. Altman stated that he had decided to recuse himself from any substantive decisionmaking regarding Madison civil claims, a course that I had recommended to Mr. Altman and one in which Secretary Bentsen concurred during our meeting. Mr. Altman stated that he wanted to meet with appropriate White House officials to apprise them of his decision to recuse himself. I said that I would attend the meeting with him.

To assist Mr. Altman, I prepared talking points to guide him through both the statute of limitations and the recusal issues. Prior to leaving Treasury for the White House and out of an abundance of caution, I also consulted with my Deputy General Counsel, who is the Designated Agency Ethics Officer, to see whether he had any pragmatic or other concerns regarding the topics Mr. Altman intended to discuss. He had none.

The meeting took place in Mr. McLarty's office, although Mr. McLarty left before the meeting began. In addition to Mr. Altman and me, the meeting was attended by Mr. Nussbaum, Mr. Ickes, Mr. Eggleston, and Ms. Williams. Mr. Altman read the talking points, including the last point, that he had decided to recuse himself from any substantive decisionmaking in the Madison civil matter. There was no discussion regarding the substance of the RTC's investigation of the civil claims, and I was not capable of having such a discussion since I had no knowledge of the substance of the RTC's investigation.

After Mr. Altman's statement on recusal, a discussion ensued. Mr. Nussbaum asked if the matter would be decided by Ellen Kulka, the RTC General Counsel, and Jack Ryan, the Interim Deputy CEO of the RTC, to whom Mr. Altman had referred in his discussion. Mr. Altman responded, "Yes." Mr. Nussbaum also asked why Mr. Altman was recusing himself, since no one appeared to believe that there was any legal or ethical requirement that he do so.

Mr. Altman indicated that I had recommended that he recuse himself. I added that Secretary Bentsen concurred in that judgment.

Mr. Nussbaum said that he knew Ellen Kulka, or knew of her, from her prior tenure at OTS. Mr. Nussbaum said that he was not saying that Ms. Kulka was not a good lawyer, but that she was tough. Mr. Altman responded by saying that he had enormous confidence in Ms. Kulka, and that he would follow any recommendation he received from her anyway, so his involvement was irrelevant. Mr. Nussbaum expressed his view that even if Mr. Altman intended to follow the staff's recommendation, Mr. Altman's presence as the RTC CEO would ensure that the RTC staff would pursue any claims with thoroughness and professionalism.

Mr. Ickes expressed the view that, if Mr. Altman were going to recuse himself, it would be better if he did it sooner rather than later. Ms. Williams asked whether, if the investigation could not be completed by the end of February, that meant the tolling agreements would have to be signed. Mr. Altman indicated that he thought so. She also asked if counsel for the private parties would be contacted. Mr. Altman indicated he thought so, but he was not sure. The meeting ended with Mr. Altman stating that he would think about the recusal issue overnight, and Mr. Nussbaum told him that was all they could ask. The next morning, Mr. Altman told me that he had decided not to recuse himself for the time being.

The White House meeting on February 2, 1994, was proper. First, the briefing on the statute of limitations operation did not impart any nonpublic information. It merely apprised the White House of how the law operated, a briefing also given to congressional personnel.

Second, the briefing served a legitimate governmental purpose. By the February 2, 1994, meeting, Senator D'Amato and others were counting down the days, wondering whether the RTC would make a decision in connection with possible Madison civil claims before the statute of limitations expired, and what the decision would be.

Mr. Altman was aware of the recusal issue, and acted appropriately in considering whether to exercise his discretion to recuse himself, a decision that ethics officers advised was entirely up to him and not mandated by ethics statutes or regulations. When he reached a conclusion, it was entirely appropriate for him to tell Mr. Nussbaum and other White House officials.

Third, no discussion took place regarding the substance of any civil claims. I was not in a position to have such a discussion.

Fourth, and most importantly, Mr. Altman viewed the issue of recusal as one of process, and not substance, because, as he repeatedly said to me, to Ellen Kulka, and to others, Mr. Altman intended to follow whatever recommendation he might receive from Ms. Kulka. I believed him then, and I believe him now.

In recounting the events of February 1 and 2, 1994, I am aware that others' recollections differ from my own. I do not question the good faith of anyone who has a differing recollection. Most importantly, I think these differences in recollection are irrelevant. What matters is that each of these events in which I participated pursued legitimate objectives and were appropriate. Despite differ-



ences in recollections, no one, to my knowledge, intended to do, or did, anything wrong or unethical.

On February 24, 1994, this Committee held RTC oversight hearings. It was the first time, in about a year, that those hearings had been held, and the scope of the topics to be covered was enormous. For over a week, often working around the clock, a team of RTC, oversight board, and Treasury officials prepared testimony, questions and answers, and otherwise researched issues that were thought likely to arise at the hearings.

Ultimately, a substantial briefing book was put together for Secretary Bentsen and Mr. Altman. When the day of the hearings came, Secretary Bentsen and Mr. Altman testified on a panel of witnesses, and I was seated in the row behind them, along with other Treasury and RTC officials. The hearings went on for 4½ hours, without a break.

During the hearings, I was aware of a number of responses that Mr. Altman gave that I believed would require further elaboration. I expected and understood that, in the ordinary course, the record would be supplemented and, if necessary, corrected, and that we would have the opportunity to do so in a careful, professional, and thoughtful way, following a review of the transcript.

But the events of the next week overtook us. A March 3, 1994, Washington Post article discussed the September and October White House meetings that I described to you this afternoon. Rather than awaiting a complete review of the transcript, piecemeal corrective efforts began. The next day, March 4, 1994, Grand Jury subpoenas were issued by Independent Counsel Fiske. This effectively ended the normal processes that would have occurred to review and supplement the testimony.

Two questions that Mr. Altman was asked during his testimony have been the focus of some attention. I have been asked why I did not speak up at the hearings or have Mr. Altman supplement his testimony. I want to address those issues directly.

At page 69 of the printed record of the Committee's hearings, the following question was asked and answered:

Senator BOND: How was the White House notified of the referral?

Mr. ALTMAN: They were not notified by the RTC, to the best of my knowledge.

When this question was posed, I realized that there had been no consideration of this question in preparing Mr. Altman's briefing materials, and that I had not thought about the fall events relating to the criminal referrals for many months. Although I remembered that I had spoken with Mr. Nussbaum about the referrals, I did not have a clear recollection of the meeting or of the events surrounding it. Listening to the question in the context of the questions that came before and after, it appeared that it related to RTC contacts with the White House about the criminal referrals. Moreover, Mr. Altman was asked, and answered, about the extent of his own knowledge. I did not know, sitting there, what he knew or recalled knowing. Without having the ability and opportunity to discuss this matter with Mr. Altman and others at Treasury, I did not believe that I could suggest to Mr. Altman, there, on the spot, that he change his response.

At page 55 of the printed record of the Committee's hearings, the following question was asked by Senator Gramm:

Have you, or any member of your staff, had any communication with the President, the First Lady, or any of their representatives, including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

Although Mr. Altman responded affirmatively to this question and described his discussion at the February 2, 1994, White House meeting about the statute of limitations, his answer did not include a description of the recusal discussion. I believed it was appropriate to wait until we could discuss his answer and the reasons that he had not mentioned the subject of recusal, to decide how best to supplement the record. As I have indicated, that opportunity never arrived.

As I left the hearing on February 24, 1994, I spoke with Steven Harris, the Committee Staff Director and Chief Counsel. Mr. Harris told me that there were going to be follow-up questions for Mr. Altman from the Committee. The next day, Mr. Harris emphasized that we should expect many follow-up questions.

On the following Tuesday, I was given a copy of a Reuter's transcript of a colloquy between Senators Riegle and D'Amato in which Senator D'Amato set forth over a dozen questions that he wanted answered about the White House meetings described in Mr. Altman's testimony. Senator Riegle responded to Senator D'Amato that, "The Committee record is still open," and that Senator D'Amato's questions should be submitted to Mr. Altman so that they could be answered and included in the record.

Based on this and on what Mr. Harris had told me the previous week, I fully expected that we would receive written follow-up questions which would be answered in conjunction with a thorough review of the transcript of the testimony. There was no doubt in my mind that all of these conversations and meetings would be disclosed and described fully to the Committee, and that every question would be answered. However, as I stated, with the service of the Grand Jury subpoenas by the Independent Counsel, the normal process of reviewing and, if necessary, correcting the record was overtaken by the many investigations that followed.

As my description of the events of last fall and this past winter makes clear, each of the conversations between White House and Treasury officials at which I was present served a legitimate governmental purpose, and was not intended to, and, in fact, did not, further any private interests or bestow benefits on any individual. The same cannot be said, however, for the RTC employee, or employees, who leaked information about the criminal referrals to news reporters, breaching the Office of Government Ethics' ethical standards and RTC regulations. No action was ever taken against them.

I think it is important for all of us to maintain our focus. Much has been made in the press about purported inconsistencies between some of my recollections and those of Secretary Bentsen and Deputy Secretary Altman. I have the highest respect for both Secretary Bentsen and Deputy Secretary Altman. It is my honor and privilege to serve with them and report to them. The fact that we have differences in recollections should come as no surprise. Witnesses to events often have differing recollections and, frankly, the differences here are not important. They are not important because no one, not me, not anyone at Treasury, and no one at the White

House, attempted to interfere in the substance or processes of any criminal referrals, or the substance or processes of any potential civil claims, involving Madison. The criminal referrals were made, the civil claims continue to be explored, and Mr. Altman recused himself from any involvement in the Madison matter almost half a year ago, never having made, or having been asked to make, a substantive decision.

At the outset, I indicated that I only know one way to do things: With honesty, and consistent with legal and ethical requirements. I testified extensively before the staff of this Committee, and this is the seventh day that I have given sworn testimony before a governmental investigative body. I have tried to give this Committee, albeit in abbreviated form today, my best recollection of what occurred and why. I am satisfied that I have given you my best recollection, as I have done on each prior occasion that I have testified and the numerous additional times that I have been interviewed. I have no doubt about the propriety of my actions, and I have no reason to doubt the propriety of anyone else's.

I thank the Committee for the opportunity to make this statement and I welcome any questions that the Committee may have.

The CHAIRMAN. Let's start if we may—

Senator SARBANES. Mr. Chairman, can I ask—are there copies available of Ms. Hanson's opening statement?

The CHAIRMAN. Thank you, Senator Sarbanes. No, we were not given copies. If I may—do you have copies or could we—if you'll let us have what you just read, we'll Xerox it, so we can circulate it to Members of the Committee.

Ms. HANSON. We sent 120 copies at 9 a.m.

The CHAIRMAN. Apparently, they haven't arrived. Until they're located, it would be helpful if we could just take your statement and make some copies. They're probably somewhere making their way here. In any event, we do want to have copies in front of us.

I want to go to the testimony before this Committee on February 24, 1994, that you've made some reference to and which other witnesses today have talked about.

As I understand it, there was very careful preparation done ahead of time for that meeting. Several hours were devoted on at least 3 or 4 different days leading up to that hearing. Material was put together, a group met, you were part of the group, Mr. Altman was part of the group, the questions were discussed, and all of this was gone through in some detail. Is that correct?

Ms. HANSON. That's correct. It was a massive amount of material.

The CHAIRMAN. In any event, is it fair to say that Mr. Altman was well-briefed by the time that hearing started? It sounds to me as if everybody really focused on getting ready for that hearing. Is that a fair conclusion?

Ms. HANSON. There was a focus on—clearly, there was a focus on preparing for the hearing. As I said, there was a massive amount of work to do, a tremendous scope of issues to be covered. Although we did our best, on many, many issues there was not as in-depth a review as we would have liked.

The CHAIRMAN. But you testified today, and also in your deposition that, as you were listening to Mr. Altman answer questions

that day, questions you yourself have cited from Senator Bond, Senator Gramm, that—and you’ve been careful as to how you put it, but that you were not—the answers in and of themselves were not complete, and in your mind, in effect, you thought, well, those can be amplified later. Is that a fair conclusion for me to draw from what you’ve just said?

Ms. HANSON. Yes, I thought the entire testimony needed to be reviewed.

The CHAIRMAN. On the recusal issue, it seemed to me, you also seemed to be saying you were somewhat surprised that, when Mr. Altman was asked to summarize anything that was of any consequence, he omitted any discussion of the recusal even though that was in the preparation document that you’d helped put together. Were you surprised that he left that out?

Ms. HANSON. Yes.

The CHAIRMAN. Did you say something to him about it after you left the Committee room?

Ms. HANSON. No. I didn’t—

The CHAIRMAN. Why?

Ms. HANSON. He left before I did, and I didn’t go back with him.

The CHAIRMAN. How about in the days that followed, did you have any occasion to mention that to him?

Ms. HANSON. Not that specific issue. As I stated, I knew during the course of the testimony—the course of the hearing that there were a number of issues that needed to be followed up. I did not have a copy of the transcript until substantially later, and it was my intention to go through the transcript carefully and raise all of the issues with Mr. Altman at once.

The CHAIRMAN. Didn’t I hear you say in your prepared statement, though, that when you went over to the meeting at the White House, Mr. Altman went over with the idea in mind of saying he was going to recuse himself and then encountered some pressure, some resistance to that, and decided not to recuse himself? Didn’t I hear you say this a minute ago?

Ms. HANSON. I wouldn’t characterize it as pressure. There was a discussion of the issue, and I understood Mr. Altman to have listened to the discussion and considered it, but I wouldn’t have—

The CHAIRMAN. Let’s leave the pressure part out. The point is, he heard a contrary point of view and it caused him, in a sense, to revisit his decision. Is that a fair summary?

Ms. HANSON. Yes.

The CHAIRMAN. The fact that occurred, and it was significant enough that you just described it here to us in your prepared statement, it seems to me, when that was omitted when he was asked a question that clearly was designed to encompass such things as that, at some point, either right then or shortly thereafter, you know you had some obligation to remind him of the fact that, for whatever reason, that had been left out. You say you didn’t do that.

Ms. HANSON. Sir, as I stated, this issue, the recusal issue has assumed a tremendous—much more importance than it had at that particular time. At that particular time, there were a lot of—there were a number of issues that I knew needed to be followed up. I fully expected that this would all be handled in the ordinary course. What happened was that, with the appearance of The

Washington Post article and the service of the Grand Jury subpoenas, the orderly process of responding to questions and supplementing and reviewing the transcript terminated, at least my participation in it terminated.

The CHAIRMAN. But other things did happen, and you also made reference to this in your statement. We began to get clarifying letters from Mr. Altman, as you know, shortly after the hearing. We got a series of letters. The first one came on March 2, 1994. The next letter came on March 3, 1994. The next letter came on March 11, 1994 and the next on March 21, 1994. What I'm struck by, among other things, is that, for example, in the first letter that came, you might have thought, if the recusal issue had been forgotten or overlooked even though it was in the briefing, it's in your briefing sheet, and was discussed, that in the case of his reflecting after the Committee hearing to the point he was going to prepare a memo and send it to us, which he did, that the recusal issue would occur to him and would go in that memo. But it didn't, did it?

Ms. HANSON. If I might, sir. I was unaware of the last two of those letters until my Grand Jury testimony. The letter of March 2, 1994, was prepared hastily for a specific purpose, which was to put you and the Committee on notice of the two fall meetings prior to learning about it in the press.

The CHAIRMAN. Right.

Ms. HANSON. It was not intended, by any stretch of the imagination, to completely supplement or correct the record.

The CHAIRMAN. How about the second letter, then, on March 3, 1994?

Ms. HANSON. The second letter on March 3, 1994, I understood, was prepared by Mr. Altman, and I understood that he prepared it in response following a conversation that he had with you. I didn't know exactly what it was that Mr. Altman was intending to respond to at that time, and my—as I stated, I did not expect it, by any stretch of the imagination, to be a full correction and review of the transcript, which, to my recollection, I did not even have. I reviewed that letter solely to make sure that there was nothing in it that was affirmatively wrong.

The CHAIRMAN. I think it's the issue of what's missing, as opposed to what's affirmatively wrong, that's the problem with the testimony before the Committee. My time is up, so I'll just make my point and then yield. My point is that, I think as a professional—and you clearly are that and I respect your professionalism and we've cited that here today—when the hearing was underway and pointed questions were being asked and were being followed up by follow-up questions, there was a requirement there on his part, and yours, to make sure that the answer was complete and responsive to what the question was. I think you, in effect, have said today that you had some concern about that—you phrased it carefully, but you said you were listening and you knew some things were not being said that, presumably, needed to be part of an answer. But then, you say he used words at the end that—what were the words that he used at the end of his statement—

Senator MACK. "That's the whole conversation."

The CHAIRMAN. "That's the whole conversation," in other words, he used a very declarative summary comment. In your deposition you say that, in your mind, when he said that was the whole conversation, in effect, he closed the door on you being able to lean forward to him and say, "By the way, you've left out recusal."

Ms. HANSON. Sir, he had an answer in front of him that had been gone over and he had reviewed that had the recusal issue in it. I did not know, as I sat there, why it was that he didn't include that in the discussion, but, as I sat there, I thought that I could give him a note and remind him about the recusal issue. I recall realizing that I had lost that opportunity——

The CHAIRMAN. Because of that statement——

Ms. HANSON. Looking back at the transcript, I understand why I thought I had lost that opportunity, because he had stated that's all there was to the conversation. I believed, until I had the opportunity to sit down and talk with him in an orderly way, review the transcript with him, and answer not only that, but a number of other questions on the transcript, there was not a way to—certainly it was not appropriate to supplement the record in a piecemeal fashion. That was my view.

The CHAIRMAN. We may come back to that.

Senator D'Amato, my time is up.

Senator D'AMATO. Mr. Chairman, I'm going to yield to Senator Mack, but I'd like to say that was February 24, 1994. Did you speak to him about the recusal issue, that he did not put it forth before this Committee the day after the testimony, on February 25, 1994?

Ms. HANSON. No, on that day we were working on his actual recusal. If you recall.

Senator D'AMATO. Wouldn't that be a time to say to him, by the way—I mean, you work together, you're colleagues together? You did not mention the fact of this—you knew about it, and you said he was so declarative that you didn't want to get up and say, "By the way, you left out the recusal."

Ms. HANSON. Let me state again, the responses in the testimony, there were a number of items in the testimony that I knew had to be reviewed and——

Senator D'AMATO. We'll come back to those. Let me yield to Senator Mack.

Senator Mack.

Senator MACK. Thank you, Senator D'Amato.

Welcome, Ms. Hanson. We appreciate your testimony and the time that you've given to it. I'd like to review this with you chronologically, and touch on some of the things that you mentioned both in your statement today and also in the deposition earlier. Did you ever become aware that in the spring of 1993, Mr. Altman had faxed copies of press articles regarding Madison and Whitewater to Bernie Nussbaum that actually had appeared 1 year earlier, in March 1992?

Ms. HANSON. Is your question whether I knew it in the spring of 1993?

Senator MACK. Did you ever become aware that in the spring of 1993, Mr. Altman had faxed copies?

Ms. HANSON. I was recently shown a copy of a fax and I also heard from Mr. Nussbaum's testimony before the House last week that, in my initial discussion with him on September 29, 1993, I mentioned that I understood Mr. Altman had given him some information on Madison. I had not independently recollected I had said that to him, but Mr. Altman did give me, at that same time in September, a copy of the same article that, it appears, he had faxed to Mr. Nussbaum in the spring. I didn't know about it when it was done in the spring, and I don't recall the conversation with Mr. Nussbaum in the fall.

Senator MACK. What you're testifying is that the first time you had knowledge of this was during your September 29, 1993, meeting with Mr. Nussbaum?

Ms. HANSON. I'm saying I don't recall at that time—I don't recall, as I sit here now, that at that time I realized that it was the article, The New York Times article, that had been faxed. I have been shown a faxed copy of that, along with a fax cover sheet recently.

Senator MACK. You would have no knowledge that Mr. Altman has a file in which he had kept that? You didn't see him take it out of that file?

Ms. HANSON. He did take it out—when Mr. Altman gave me a copy of The New York Times article, it was taken out of a file that he had.

Senator MACK. How old an article was that?

Ms. HANSON. It was an article that had appeared during the campaign.

Senator MACK. Would that be in March 1992?

Ms. HANSON. I believe so.

Senator MACK. It sounds as if Mr. Altman had a file containing fairly extensive information relative to Madison.

Ms. HANSON. I don't know what else was in the file, sir, he gave me a copy of the article.

Senator MACK. Drawing your attention back to the fall of 1993. On September 27, 1993, did you have a discussion with Bill Roelle about nine new criminal referrals regarding Madison Guaranty?

Ms. HANSON. Yes.

Senator MACK. Please tell me about that discussion.

Ms. HANSON. As I stated in my testimony, Mr. Roelle called me. I recall that he started out his conversation with a reference to Mr. Altman. He told me that nine criminal referrals relating to a company called Madison were on their way from the RTC in Kansas City to Washington, and from there they would go to the Justice Department. He summarized the referrals for me and told me the President and Mrs. Clinton were included in the referrals, solely, as possible witnesses. He told me there had been a referral the prior year in which the language relating to President and Mrs. Clinton could be read in such a way that it could be inferred, if additional investigatory work were done, they might be something more than potential witnesses, but that, in these referrals, these nine referrals, the President and First Lady's names were included, solely, as possible witnesses. I understood from him, in that conversation, that as soon as those referrals reached Washington, they would be leaked, and the information in them would be leaked.

Senator MACK. Did you later relay the conversation about the referrals and the details of the referrals to Mr. Altman?

Ms. HANSON. I did.

Senator MACK. When was that?

Ms. HANSON. To my recollection, it was shortly after my conversation with Mr. Roelle.

Senator MACK. By "shortly," are we talking about the same day?

Ms. HANSON. Yes.

Senator MACK. Was it your testimony that Mr. Altman tasked you with informing the White House about the referrals?

Ms. HANSON. Yes.

Senator MACK. Can you reconstruct that conversation for us?

Ms. HANSON. I recall that I spoke with Mr. Altman and told him what I had learned from Mr. Roelle. I don't recall the specifics of the conversation, but I recall being given the responsibility of telling Mr. Nussbaum that this information was going to leak to the press, because he was going to have to deal with it when the press inquiries began.

Senator MACK. So, at this time, Mr. Roelle called you at the suggestion of Mr. Altman?

Ms. HANSON. I—as I stated, I recall that Mr. Roelle started his conversation with a reference to Mr. Altman, but I had no recollection that he had spoken with him before he spoke to me.

Senator MACK. So, Mr. Roelle said that Mr. Altman had given instructions. Then, after your conversation with Mr. Roelle, you went to Mr. Altman and told him of this conversation.

Ms. HANSON. That's correct.

Senator MACK. During that conversation with Mr. Roelle, did he stress to you the importance of the confidentiality of this information?

Ms. HANSON. I don't recall that, and I don't believe—I don't recall that at all, sir.

Senator MACK. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Dodd.

Senator DODD. Thank you, Mr. Chairman.

Thank you, Ms. Hanson, for being with us today. Let me start out with one question, if I may. You were hired as the Counsel to the Treasury. Is that correct?

Ms. HANSON. That's correct.

Senator DODD. Did anyone raise the question with you whether—regarding—September 29, 1993, the time of the conversation with Mr. Roelle, whether or not you were the proper person to be talking to anyone at the RTC? We understand how Mr. Altman was wearing two hats at this point, but you were not working for the RTC. We discussed that, and the kind of problems it generates, this morning. Did you raise the question, or did anyone raise the question, that maybe you shouldn't be the person involved in this at all?

Ms. HANSON. First, Mr. Altman had statutory authority to—

Senator DODD. I understand that.

Ms. HANSON. —for me to be involved in these matters, and I—this call was unsolicited. This call came to me. I took the information and I provided it to Mr. Altman.



Senator DODD. Mr. Altman had statutory authority to be in his position. I was unclear how you acquired that statutory authority.

Ms. HANSON. The RTC CEO has the statutory authority to utilize employees, FDIC and other Executive Branch personnel, for RTC functions. As Deputy Secretary of the Treasury, he had the authority to grant that assistance, so, effectively, when he asked me to do something that was RTC-related, he had the statutory authority to make the request and to grant it.

Senator DODD. As a detailee, in effect?

Ms. HANSON. Not as a detailee. The term "detailee" has specific meanings. I continued to, at all times, fulfill my Treasury functions and, in addition, took on, from time to time as he asked me, RTC-related functions.

Senator DODD. Was there ever a conversation between you and Mr. Altman that established this relationship with regard to the RTC? Did he ever say to you, by the way, because I've been saddled with this responsibility until we get a permanent CEO, I'm asking you to perform this function as well?

Ms. HANSON. I don't recall that there was a specific conversation. I don't think it was necessary. You have to keep in mind, also, that Secretary Bentsen is the Chairman of the oversight board—

Senator DODD. I understand that.

Ms. HANSON. —and Treasury has, historically, always been involved, to one extent or another, in RTC matters.

Senator DODD. I appreciate that and I'm not questioning that. I just seemed to be making that linkage because it seems—again, we all discussed earlier today the benefit of maybe going back and re-visiting this—the law requires Senate confirmed personnel to assume the responsibilities when a vacancy occurs. I think that's a legitimate question for the Senate to consider.

Let me ask a series of questions. You've been a sworn witness here and these are very important questions. They go, as far as I'm concerned—this Senator is concerned—to the heart of the matter, and that has to do with whether or not any actions were taken which in any way have thrown these cases off track. I'd like to address a series of questions to you regarding your actions that might have contributed, in any way, to sharing information that caused these cases to be treated differently than they have been.

Ms. Hanson, when you learned about the criminal referrals in September 1993, did you take any action, or did you direct anyone under your authority to take any action, to obstruct, to impede the handling of, or forwarding of these referrals to the Department of Justice?

Ms. HANSON. Absolutely not.

Senator DODD. Did you ever actually read the criminal referrals?

Ms. HANSON. No, sir.

Senator DODD. Did any officials at the White House ask you to take any action, or instruct you to have anyone else take any action, any action, to obstruct or impede the RTC's handling of these criminal referrals?

Ms. HANSON. No, sir.

Senator DODD. To your knowledge, did anyone at the Treasury, the RTC, the White House, or any other agency take any action to impede, or in any way interfere with, the criminal referrals?

Ms. HANSON. Not to my knowledge.

Senator DODD. Did you, or anyone else that you're aware of, obstruct, or otherwise interfere with, the RTC's civil case involving Madison?

Ms. HANSON. Absolutely not.

Senator DODD. Mr. Chairman, those, to me, are the important questions. I know it's been raised by others that someone may have done something with the information, but trying to prove a negative gets very, very, very, very difficult. So, at that point, Mr. Chairman, I'll be glad to yield my time.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Gramm.

Senator D'AMATO. Mr. Chairman, if I might, I'd like to yield to Senator Mack, so he can continue along his line of questioning.

The CHAIRMAN. Senator Mack.

Senator MACK. I thank my friend, and thank you, Mr. Chairman.

I want to pick up on the confidentiality issue for a moment. I understand that you've had lots of conversations and you're not going to remember everything, but in both his testimony this morning and in his earlier deposition, Mr. Roelle went on at some length about the discussion about confidentiality, saying, in essence, it really should be only for the CEO, Mr. Altman's ears, nobody else. Does any of this ring a bell?

Ms. HANSON. No, sir.

Senator MACK. I understand that, then, after you were tasked by Mr. Altman, you had a meeting with Mr. Nussbaum and Cliff Sloan on September 29, 1993, and discussed the fact that the criminal referrals were on their way to the Department of Justice. Is that correct?

Ms. HANSON. I had a conversation with Mr. Nussbaum and Mr. Sloan about the press leaks.

Senator MACK. Let's talk about that. You just said you knew there were going to be press leaks, but there was no discussion about what was going to be leaked?

Ms. HANSON. We had a discussion. I don't remember the specifics of the discussion, sir, but we had a discussion that criminal referrals, in which the President and Mrs. Clinton were named as possible witnesses, were going to—information relating to the criminal referrals would be leaked to the press.

Senator MACK. As I understand it, even the Justice Department didn't have knowledge of those referrals at that point. Is that right?

Ms. HANSON. The Justice Department wasn't going to have to deal with the press inquiries.

Senator MACK. That was not my question. My question only concerns timing. On September 29, 1993, the Justice Department did not have the referrals. Correct?

Ms. HANSON. Sir, I don't believe so, but I don't know.

Senator MACK. Is it your testimony that Mr. Altman knew of, and approved of, your conversation with Mr. Nussbaum on September 29, 1993?

Ms. HANSON. Yes, it is.

Senator MACK. At that point in time, September 29, 1993, were you aware of any publicity regarding the new criminal referrals?

Ms. HANSON. Was I aware of any publicity? I don't know what that means. Articles? I was unaware of any articles.

Senator MACK. You didn't have any direct knowledge, at that time, that there was a leak?

Ms. HANSON. I had spoken with Mr. Roelle 2 days before. I knew the referrals were on their way to Washington. I understood that they would leak as soon as they arrived. I thought Mr. Roelle was a very good source of that knowledge. Knowing that, I inquired as to whether or not his view was that these referrals were going to leak. I had no way of knowing whether or not they had leaked at the actual time I spoke with Mr. Nussbaum. On the other hand, it was very clear from the Early Bird on September 30, 1993, that they had leaked. From the chronology that was just released yesterday from the IG's, it states that on September 23, 1993, Mr. Dudine, the Director of the Office of Investigations of the RTC, had reported that a reporter was getting close to something on the criminal referrals. That was a full week before I spoke with Mr.——

Senator MACK. But you had no actual knowledge?

Ms. HANSON. But I had a very good source of——

Senator MACK. That was not my question, Ms. Hanson. My question was, at that time, did you have any personal, actual knowledge?

Ms. HANSON. I did not.

Senator MACK. Did you have a subsequent conversation with Mr. Sloan of the White House Counsel's Office on September 30, 1993? And what was the substance of that conversation?

Ms. HANSON. I have been recently shown Mr. Sloan's notes, in fact, I may have first seen them when I spoke with the Committee staff. I don't have an independent recollection of that telephone conversation—of that conversation. I've seen the notes, but I don't have a recollection of that conversation.

Senator MACK. We have seen testimony that there was a phone conversation.

Ms. HANSON. That's my understanding of the testimony.

Senator MACK. The phone conversation was between you and Mr. Sloan on September 30, 1993, and it must have been a fairly detailed conversation, because Mr. Sloan's notes indicate that nine criminal referrals in the investigation had been forwarded to Washington.

Ms. HANSON. I'm not saying, sir, that it didn't happen; I'm just saying I don't remember it.

Senator MACK. But you didn't remember. Mr. Sloan, now, has testified he had received this information in a phone conversation with you on September 30, 1993, and he has gone so far as to have extensive notes on that, and notes outlining the nine referrals.

Ms. HANSON. Sir, I'm not disputing Mr. Sloan's recollection. I'm just saying I don't recollect it.

Senator MACK. In addition to his notes about the nine criminal referrals, he also said there were allegations concerning Mr. Tucker, former Senator J. William Fulbright of Arkansas, and Mr. McDougal in connection with the RTC. The RTC had concerns about the diversion of funds to Mr. Clinton's 1984 gubernatorial

campaign, and the campaign was being examined as a possible co-conspirator. Does any of this sound new to you?

Ms. HANSON. I don't have a copy of the notes in front of me, sir.

The CHAIRMAN. Here is a set here, can you take them down, please. Just pass them over to this gentleman.

While you study those, Ms. Hanson, were those available to you as a reference in your deposition? Were you shown those notes then, or just quizzed about them?

Ms. HANSON. I was shown the notes in connection with my testimony on these matters, although I do not recall seeing them in my Senate deposition, but they're not really legible, sir.

The CHAIRMAN. You have to study them. It took me a while, too. As you read them and figure out how that person's handwriting looks, they appear to read, essentially, as Senator Mack has stated, as far as the names mentioned and so forth. You can see, particularly on the second half of the last page, I think it gets a little clearer.

Senator MACK. I know those notes are very difficult to make heads or tails of.

Senator D'AMATO. How about going through them?

Senator MACK. I've already read them. The additional points are that President and Mrs. Clinton have been mentioned in other charges as potential witnesses, the RTC investigation of Madison originated in Kansas City, and the White House had obtained the unlisted telephone numbers of the RTC investigators.

Ms. HANSON. I don't believe that's correct. That's—actually, that's not correct to my recollection. It was my understanding, at one point in here, that a reporter had been given the names of all of the investigators who had worked on the criminal referrals and had contacted the Kansas City office to obtain their telephone numbers, because the numbers were unlisted.

Senator MACK. Do you agree with the rest of it, then?

Ms. HANSON. Some of this information I don't recall, but it does note here that—there is a reporter mentioned.

Senator MACK. I just want to finish one point.

The CHAIRMAN. Might I make this suggestion: I want you to do exactly that. We've had a vote start. Maybe, because you haven't had a chance to see this, in the time that we're gone to vote, you can, with the help of staff, figure out what it says and see if it sounds like a logic flow you would have given at that time. You will have that time as we're going to vote.

Why don't you finish, Senator Mack.

Senator MACK. I'll just make this last point. There was a memo that you addressed to Mr. Altman on September 30, 1993, where you had spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan. You said, "I've asked Bill Roelle to keep me informed," in reading from your memorandum to Mr. Altman. You went on to say, "Is there anything else that you think we should be doing?" In this memo, were you effectively reporting back to Mr. Altman that you did what he told you to do on September 27, 1993, in essence carrying out the task that he had given you?

Ms. HANSON. As I testified, I don't have an independent recollection of preparing that memorandum, but it is this type of—but

there is no question in my mind that I did, and it's the type of memorandum that I would write to——

Senator MACK. That's the memo over there and it does have your initials on it, doesn't it?

Ms. HANSON. I'm sorry, I can't see it.

Senator GRAMM. Let's just pick it up and bring it over to her.

Senator BOXER. Why don't you give her this normal-sized piece of paper?

Ms. HANSON. As I testified, this is the type of memorandum I would write to follow up on a task I had done. It was also attached to the RTC Early Bird that made reference to the fact that internal RTC sources had spoken with the press about multiple criminal referrals.

Senator MACK. Do you remember the date of the Early Bird?

Ms. HANSON. I believe it was dated the same date.

Senator MACK. What date was that?

Ms. HANSON. September 30, 1993.

Senator MACK. Was that after the meeting at the White House had taken place?

Ms. HANSON. That's correct, although, as I indicated, the IG chronology that was released yesterday indicates that reporters were making inquiries as early as September 23, 1993.

Senator MACK. Again, my point is that you say you had no knowledge of that?

Ms. HANSON. I had a very good idea that I was going to be right. I don't know exactly when it was that the first reporter had this information, but I knew that it was imminent. It could very well have happened by the time that I spoke with Mr. Nussbaum.

Senator MACK. But, again, you had no actual knowledge of that?

Ms. HANSON. Correct.

The CHAIRMAN. I think what we should now do—the second bells have rung on this vote on the floor, so we have just a few minutes left to go to vote. Why don't we give you an opportunity to review, if you need to, that memo. Perhaps the staff can help you make out the handwriting and, if there are further questions, we can deal with that when we resume.

The Committee will stand in recess for about 10 minutes while we go to vote and then we'll resume.

[Recess.]

The CHAIRMAN. The Committee will come back to order.

Let me again invite those in the room to find seats so that we can begin.

Let me now recognize Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

Ms. Hanson, before you came to Washington last year as General Counsel, what kind of law practice were you involved in?

Ms. HANSON. Corporate.

Senator SHELBY. Was that office practice, or was that white-collar criminal defense or prosecution or both?

Ms. HANSON. It was corporate finance and securities.

Senator SHELBY. Did you do trial work?

Ms. HANSON. No, I did not.

Senator SHELBY. OK, you didn't. You do realize, I know, as an accomplished lawyer, that information is very important to any-

thing, to lawyers, to business decisions, or anything. Basic information is an important commodity, is it not?

Ms. HANSON. Yes.

Senator SHELBY. OK. Information that's timely is more important.

Ms. HANSON. That's right.

Senator SHELBY. OK. Why would you think the White House would be interested in, or did you think the White House would be interested in, this information that you were—that had been given to you, that you talked to Mr. Altman about? Why did you think, when Mr. Altman told you to brief Mr. Nussbaum, or call him or whatever happened, he wanted that done? Did it occur to you why he wanted that done?

Ms. HANSON. I knew exactly why he wanted it done.

Senator SHELBY. Why, what was that?

Ms. HANSON. Because, with press leaks imminent, there were going to be press inquiries that the White House, by definition, would receive. The White House needed to be prepared to respond intelligently to the press inquiries as they came in.

Senator SHELBY. Could there have been other motivations, other than press leaks, for which the White House would want this information, or for which Altman would think they would need this information?

Ms. HANSON. The only reason that I communicated with the White House was to put them in the position to be able to respond to press inquiries.

Senator SHELBY. Did Mr. Altman use the word "press leaks" to you?

Ms. HANSON. It was my understanding in the——

Senator SHELBY. No, did he use that word, that phrase?

Ms. HANSON. As I've stated, I don't recall the specifics of the conversation, but that was the purpose of my task.

Senator SHELBY. Did you make some notes about this for your records?

Ms. HANSON. No.

Senator SHELBY. Did you make some notes about this conversation?

Ms. HANSON. With Mr. Altman?

Senator SHELBY. Yes.

Ms. HANSON. Not to my recollection.

Senator SHELBY. There is nothing you recollect from your notes about that conversation?

Ms. HANSON. No, sir.

Senator SHELBY. I want to ask you this. Did you ever, ever think it was improper, as General Counsel, to brief the White House on something from the RTC that was basically confidential, something of this importance, dealing with a Justice Department—a referral to the Justice Department involving criminal behavior, possible criminal behavior?

Ms. HANSON. Sir, I knew——

Senator SHELBY. I'm not talking about now, but before.

Ms. HANSON. The conversation that I had with Mr. Nussbaum related to press inquiries that he was likely to receive. He was bound by the ethics regulations, and, in fact, was the Chief Ethics

Officer for the Office of the President. I was bound by the ethics rules as well. It never occurred to me that he would use that information for any purpose other than the governmental purpose that I intended it to be used for.

Senator SHELBY. As General Counsel there at the Treasury and also working with the RTC in that role, did it ever occur to you that the information, once it left the RTC, could be left for many purposes, or could be leaked past the White House?

Ms. HANSON. I was under the impression, and, in fact, I turned out to be right, that the information was going to be leaked. It was leaked out of the RTC to a number of news reporters.

Senator SHELBY. Ms. Hanson, did you ever, ever check with Treasury or RTC ethics officers before meeting with the White House?

Ms. HANSON. I didn't have to do that. I was familiar with the ethics rules. I understood how they operated. I understood that I was doing this for a governmental purpose, a proper governmental purpose.

Senator SHELBY. Have you had second thoughts on that?

Ms. HANSON. Excuse me?

Senator SHELBY. Have you had second thoughts on that?

Ms. HANSON. No. The Office of Governmental Ethics has said the same thing.

Senator SHELBY. In your meeting at the White House, this has been touched on in your deposition and here, too, I suppose, but could you tell us for the record, again, what you basically told Mr. Nussbaum and the other gentleman. There was someone else there, too.

Ms. HANSON. Mr. Sloan.

Senator SHELBY. Mr. Sloan.

Ms. HANSON. As I stated, I don't recall the specifics of the conversation. I don't recall exactly what I said.

Senator SHELBY. Did you take notes with you when you went down there?

Ms. HANSON. I don't recall that I did.

Senator SHELBY. You don't recall whether you took notes down there and you don't recall the specific conversation, but you do recall briefing him regarding the RTC information that was imparted to you?

Ms. HANSON. That's right.

Senator SHELBY. But, of your own recollection, you don't remember any of it now? Is that what you're saying to the Committee?

Ms. HANSON. I don't remember, specifically, what I told him.

Senator SHELBY. Could you, generally, tell us what you told him?

Ms. HANSON. Going back to Mr. Sloan's notes—which was a question I was asked—

Senator SHELBY. Are you referring to Mr. Sloan's notes now?

Ms. HANSON. I'm referring to Mr. Sloan's notes of September 30, 1993. In looking at Mr. Sloan's notes, they do not refresh my recollection of having had a conversation with him on that date. There is some information in here that I don't recognize, but the bulk of the information in Mr. Sloan's notes is what I recall having been told by Mr. Roelle.

Senator SHELBY. Do you differ with his notes in any way?

Ms. HANSON. There are some things in here I don't remember.

Senator SHELBY. What do you differ with?

Ms. HANSON. As I say, I don't remember. Some of the things in here I don't remember. I don't remember, for example, the White-water Co. I just don't remember that.

Senator SHELBY. Yes, ma'am.

Ms. HANSON. The bulk of what is here is my recollection of what I was told by Mr. Roelle.

Senator SHELBY. Do you have any reason—although you might not remember everything about what transpired in the meeting, do you have any real reason to differ with his notes?

Ms. HANSON. No, no, sir.

Senator SHELBY. Ms. Hanson, did you check with the Treasury ethics officers before the February 2, 1994, White House meeting. I asked you, and you said no. Was that right?

Ms. HANSON. I thought you asked about the September meeting.

Senator SHELBY. OK, the first one. Did you check with the White House—did you check with the Treasury ethics officers before the February 2, 1994, White House meeting?

Ms. HANSON. Yes, I did.

Senator SHELBY. You did. What did they tell you, if anything?

Ms. HANSON. We discussed, generally, the topics that Mr. Altman intended to discuss.

Senator SHELBY. Did they talk to you about the propriety of the meeting and the perception of it? Did you go into that?

Ms. HANSON. I spoke with the Deputy General Counsel, who is the Treasury designated agency ethics officer for his—

Senator SHELBY. What advice did you get, if any?

Ms. HANSON. He said he didn't have an objection to the meeting.

Senator SHELBY. No objection to the meeting. OK. I believe you were asked earlier about when Mr. Altman testified before this same Banking Committee back in February—I forget the exact date—and you were in the audience. You were Counsel and seated right behind him, if I recall. Is that correct?

Ms. HANSON. That's correct.

Senator SHELBY. I recall you using the phrase, and I quote, you thought that it "would require further elaboration" on some of his answers. Are those your words?

Ms. HANSON. Those are my words.

Senator SHELBY. Did you ever, while he was testifying, hand him a note or something to refresh his recollection about these questions that were being asked of him?

Ms. HANSON. I recall handing him notes from time to time.

Senator SHELBY. Do you recall if these were to correct some of his answers, and if he ignored the notes, or what?

Ms. HANSON. I don't recall, sir. I recall that Ms. Kulka and I drafted a response to a question we anticipated during the hearing and gave it to him for him to look over, but I don't recall exactly what else.

Senator SHELBY. What did he do with it, if anything?

Ms. HANSON. He kept that one to use for an answer. It was a question that we didn't have a specific answer to, but drafted one during the course of the hearing. I passed him some other notes as well. I don't recall what they were.



Senator SHELBY. Were some of those notes, and this will be—my time is up, but my last part of this question—were some of the notes that you all would pass to him then, would they be to help him further elaborate on his answers, like we all do?

Ms. HANSON. I don't recall that any—that there were any notes of that type.

Senator SHELBY. OK. My time is up.

The CHAIRMAN. I want to yield to Senator Mack, who is going to continue on their side. I've spoken to Senator D'Amato, and I want to just take a minute myself. I'll elaborate on this more at a later point. I think for your reference, and the reference of any other person who comes before a Senate or House Committee in a situation such as the meeting we're referring to, if information is asked for by a Senator—let's keep it on the Senate side—and an incomplete answer is given, to get the information later is not the same thing as giving a full and responsive answer at the time, particularly if there are follow-up questions. If there is a pattern of questions that make it clear that Senators are trying to understand something, and there are incomplete answers one after the other, if you're there in the room and possess the knowledge, you should not allow that to go on. I think you have some obligation, you and anybody else in that situation, to respond in real time. That's why we have hearings.

Yes, you put stuff in the record that you may not have the information on at the time. If you've got to go find something to put it in the record, that's one thing. If you are sitting there and you have the information and it's being withheld, that's another. That, in my view, is not proper. Whether you're the person doing the testifying or somebody you directly report to is sitting there doing the testifying and you or they are giving answers, not once, but more than once, that are incomplete and you recognize them to be incomplete, I think there is an obligation to respond in real time. If you can write a note, as you say you just did with Ms. Kulka, on something else, you can certainly write a note in that area—and I say that not only to you, but everybody else who might be in an equivalent situation. A later response down the line, for the record, is not the same thing as a true and accurate response in real time. Do you understand what I'm saying?

Ms. HANSON. I do understand what you're saying, sir. If I might, as I stated, Mr. Altman was testifying. He had questions and answers in front of him, and I had every reason to believe that he was testifying—he was making decisions as he testified. The issues before us now have assumed much more importance and significance than they had at that particular time. As I stated, I expect—fully expected that we would respond in an orderly way, and would respond fully and completely to every question. There was no intention on my part, sir, not to do that.

Senator SHELBY. Mr. Chairman, could I have 10 seconds on this follow-up because it relates?

The CHAIRMAN. Of course.

Senator SHELBY. Ms. Hanson, you say that Mr. Altman had the questions and answers before him. Were these a lot of the questions that were anticipated, like in the preparation for the oversight hearing, and some of the answers that you all had prepared

and that he had prepared himself to answer accordingly? Is that what you were referring to?

Ms. HANSON. Yes.

Senator SHELBY. But sometimes, in the heat of an oversight hearing or courtroom or so forth, you can't always anticipate the question because those questions are spontaneous. Is that correct?

Ms. HANSON. That's correct.

Senator SHELBY. If he had a stock answer, it might not have been the proper answer to a spontaneous question?

Ms. HANSON. That's correct and, in fact, that is what happened here.

Senator SHELBY. Thank you, Mr. Chairman.

The CHAIRMAN. Counsel just handed you the preparation sheet that she's making reference to in this situation. You'll notice that last point is one of the contentious points in the sense that that had been reviewed and was a part of the formal written preparation. This is what, really, she's making reference to right now. I thought, as she said that, you ought to have the document in front of you.

Senator SHELBY. Sure, Mr. Chairman, I think what you were getting into is what I alluded to. I think it's very important that people answer accordingly and, if they've got information, bring it out then and not later. Right?

The CHAIRMAN. Senator Mack.

Senator MACK. Thank you, Mr. Chairman.

Ms. Hanson, I want to go back to the September 30, 1993, memo, that you sent to Mr. Altman, where you have asked Bill Roelle "to keep me informed. Is there anything else you think we should be doing?"

Ms. HANSON. I gave my copy back. I'm sorry.

Senator MACK. Can someone provide her with that memo again?

Ms. Hanson, when you wrote, "is there anything else you think we should be doing?" is that in that memorandum?

Ms. HANSON. Yes, it is. Yes, it is, sir.

Senator MACK. Is the "we" you referred to you and Mr. Altman?

Ms. HANSON. As I say, I don't have an independent recollection of preparing this memorandum, but I would interpret that to mean yes, whether there was anything that we, Mr. Altman and I, should be doing.

Senator MACK. Did you attend or set up a meeting at the White House on October 14, 1993?

Ms. HANSON. I attended a meeting. I didn't set it up.

Senator MACK. Who attended?

Ms. HANSON. From Treasury, Joshua Steiner, Jack DeVore, and myself. From the White House, Mr. Nussbaum, Mr. Sloan, Mr. Lindsey, Mr. Gearan, and I understand Mr. Eggleston was there as well, but I don't recall that.

Senator MACK. I'm going to read you part of a memorandum that Bruce Lindsey—was he there?

Ms. HANSON. Yes, sir.

Senator MACK. Let me quote from the memorandum that Bruce Lindsey wrote on October 20, 1993, with reference to the October 14, 1993, meeting:

One of the referrals, however, involved four cashier's checks each for \$3,000. Two were made payable to the Clinton for Governor campaign and two were made payable to Bill Clinton. The checks were dated April 4 and 5, 1985. All four checks were deposited in the Bank of Cherry Valley. Gerth wanted DeVore to find out who had endorsed the checks. A check of our campaign records turned up three cashier's checks for \$3,000 each from J.W. Fulbright, Ken Peacock, and Dean Landrum and a personal check for \$3,000 from Jim McDougal signed by Susan McDougal.

Later on in the memorandum he writes:

The RTC believes that the funds for the cashier's checks came from a loan from Madison Guaranty to a Republican, but supposedly the Republican was unaware that some of the loan funds had been diverted.

Do you have any recollection of that being discussed at that point?

Ms. HANSON. I have a recollection of checks being discussed, and I've seen Mr. Lindsey's memo. It's unclear to me from that memo, the way it's written, whether information was discussed at the meeting or subsequently provided. I have no recollection of that last paragraph. I don't know what the source of that information is, and I don't recall having heard it.

Senator D'AMATO. Can I ask you something? Were you ever given that information?

Ms. HANSON. I'm sorry?

Senator D'AMATO. Were you ever given that information? Senator Mack has just relayed to you a memo. I want to know, in the briefing that you had, did you ever get that information?

Ms. HANSON. Did I ever get the information—

Senator D'AMATO. When Mr. Roelle called you and made reference to the nine criminal referrals, did he give you that information? Is that the information he gave you?

Ms. HANSON. The information about the checks or the information about the—

Senator D'AMATO. About the nine referrals and did he give—

Ms. HANSON. I don't recall hearing anything about checks from Mr. Roelle at all.

Senator D'AMATO. But you do remember the nine criminal referrals?

Ms. HANSON. That's right.

Senator MACK. The implication is that Mr. Lindsey learned about these checks from you.

Ms. HANSON. I did not have that information. Sir, I understood—actually, I understood that the information about the checks came from Mr. Gerth, that it was the—

Senator MACK. I don't think he had that information, in fact the RTC believes that the funds for the cashier's checks came from a loan. I don't think Mr. Gerth had that information at that time.

Ms. HANSON. Certainly, Mr. Gerth, according to this, had the information about the checks because Mr. Gerth wanted Mr. DeVore to find out who had endorsed them. As I say, I have no recollection of ever having heard anything about checks from Mr. Roelle.

Senator MACK. I don't have any further questions.

Senator D'AMATO. Senator Bennett.

Senator BENNETT. Thank you.

I intend to yield to Senator Roth, who wants to pursue the chronology, but I can't resist making a comment, somewhat in the spir-

it of the Chairman's comment, about lessons to be learned out of this for the future.

This is all done in the name of dealing with press inquiries. I'm not a lawyer, so I don't understand all that's going on around here, but I have earned my living advising people about press inquiries. I first came to Washington as Press Secretary to a Congressman. The press response the White House gave was the right one, "No comment." It did not require a briefing in the White House or a briefing in Mr. McLarty's office or anyplace else to prepare them for that stunning riposte to a press inquiry. "No comment." The best response, I realize, is terribly difficult to discipline yourself to give, but the best response would have been, since we have received no communication of any kind from the RTC about this matter and since it would be inappropriate if we had, we are not in a position to comment. That gives the White House the high moral ground and they should hang on to it. I think they made a serious mistake in having you come over and give them their briefing.

With that comment, Mr. Chairman, I'll yield whatever time I have left to Senator Roth.

The CHAIRMAN. Time has expired on this side at this point.

Senator Sasser.

Senator SASSER. I thank you very much, Mr. Chairman.

Ms. Hanson, I want to return to the reason that Mr. Roelle called you in the first place. When he called to alert you to the fact that there would be nine criminal referrals coming from the Kansas City office of the Resolution Trust Corporation to Washington, as I understand it, he called to alert you to that fact because he felt that as soon as these criminal referrals got to Washington, they would be leaked to the press. Is that an accurate statement?

Ms. HANSON. Yes. Yes, sir.

Senator SASSER. I find that really fascinating. Did he tell you why he thought they would be leaked or who would gain an advantage by leaking that information to the press and why they would do it? Did he mention that?

Ms. HANSON. No, but it was common knowledge, at that point, that the RTC—information regularly leaked from the RTC.

Senator SASSER. This was information that was supposed to be privileged and confidential in order to protect what might very well be innocent citizens who were alluded to in a criminal referral. Isn't that an accurate statement?

Ms. HANSON. Yes, yes, and in order not to compromise the investigation.

Senator SASSER. I don't want to compromise the investigation. I think that's an important aspect of it. I think it's also an important aspect that the confidentiality be maintained to protect perhaps innocent citizens from defamation and damage to their character and integrity because of a referral that, really, might have no substance after the Justice Department examines it. Are there any penalties for the leaking of this—unauthorized disclosure of this information or for leaking it, to your knowledge?

Ms. HANSON. It's a violation of RTC regulations, a violation of Office of Government Ethics regulations, and can be subject to personnel sanctions.

Senator SASSER. Mr. Roelle knew this was going on in the Washington office and he wanted to alert you to it. Did he make any statement as to what steps the RTC might be taking to try to stop this illegal and unauthorized disclosure of information?

Ms. HANSON. No, sir.

Senator SASSER. This whole series of events was triggered because of people in the employment of the Resolution Trust Corporation who were leaking this information in an unauthorized fashion. Were you simply being advised of this so you'd have a heads-up when it was coming, when it came in the press?

Ms. HANSON. That's right, and all of the information that I was given by Mr. Roelle did appear in the press.

Senator SASSER. As I understand it, from your previous testimony in the deposition, the information that appeared in the press was considerably more extensive than the information that had been given to you by Mr. Roelle, was it not?

Ms. HANSON. That's correct.

Senator SASSER. As a matter of fact, it even outlined the names of the various examiners—RTC examiners who were alluded to in the referrals. Didn't the press account give their names?

Ms. HANSON. Of the investigators?

Senator SASSER. Yes.

Ms. HANSON. As I understand it, there has been significant information about the referrals that has appeared in the press for a very long time.

Senator SASSER. Let me take you back, Ms. Hanson, to the meeting that you had on February 2, 1994. Did Mr. Altman, Roger Altman, the Deputy Secretary, at the February 2, 1994, meeting at the White House, inform the participants with regard to the Madison Savings & Loan that it was "unlikely the investigation could be completed, and then a recommendation made by the RTC General Counsel, prior to the expiration of the statute of limitations"? In other words, do you have any recollection of Roger Altman making that statement in the meeting that it's unlikely—

Ms. HANSON. Quite—sorry.

Senator SASSER. Go ahead.

Ms. HANSON. Quite the contrary. In fact, the statement that he made and what was included in the talking points that he used for that discussion clearly stated that it was unclear when the investigation was going to be completed, but it certainly would be completed by February 28, 1994, which was consistent with my understanding of what the RTC's position was.

Senator SASSER. Can you give us any explanation of why Harold Ickes apparently recalls that Roger Altman made such a statement, that it could not be completed prior to February 28, 1994?

Ms. HANSON. I have no idea.

Senator SASSER. Do you know of anybody else in the meeting who recalls Mr. Altman making that statement, other than Mr. Ickes?

Ms. HANSON. I'm not familiar with anyone else's testimony sir, but it certainly wasn't made in my presence.

Senator SASSER. Going back to the press leaks, did Mr. Roelle indicate that the Resolution Trust Corporation was going to try to

take any action to ferret out these leakers and deal with them in any sort of administrative fashion?

Ms. HANSON. No, sir.

Senator SASSER. So he just seemed to be accepting the fact, that here, we're going to send this confidential information to Washington and you better be on the look-out because it's going to be in the press shortly and you better know what it's about?

Ms. HANSON. It seemed to be a fact of life at the RTC.

Senator SASSER. I must say to you that I find that to be and I'm not—of course, you were a newcomer and didn't have much say about what goes on in the RTC operations, but I find it very disquieting that confidential information such as that would be routinely leaked, and that some in the RTC appear to have accepted that as a fact of life in the RTC Washington office.

Thank you very much, Ms. Hanson. I see that my time has expired.

The CHAIRMAN. Thank you, Senator Sasser.  
Senator Gramm.

#### OPENING COMMENTS OF SENATOR PHIL GRAMM

Senator GRAMM. Mr. Chairman, I'd be happy to begin now, but we're getting ready for the second bell on a floor vote. Should I wait until we get back?

The CHAIRMAN. We'll give you your full shot of time. Senator Boxer is going across to vote and coming back. If we have to interrupt the hearing, she can resume it until I can vote and come back. I think you should start and we'll protect your time. If you feel hurried, we'll give you the time you need.

Senator GRAMM. Ms. Hanson, thank you very much for appearing before the Committee.

I want to go back and be sure, before I get to the questions, that I understand exactly what the facts are. Mr. Roelle, who is a career employee of the FDIC, who was, until recently, on assignment to the RTC, called you—you are not an RTC employee, but you work for the Treasury Department—he called you to give you a message about criminal referrals. I want to be sure that I've got it right. Was the message that there were criminal referrals and that they might be leaked to the press, or was the message that there are criminal referrals that might be leaked to the press and that there are nine of them? In other words, was the purpose of the communication to tell you that the referrals were coming and they might be leaked to the press, or was the purpose of the communication to tell you about the criminal referrals and, as an afterthought, an amendment, or an addendum, a mention that they might be leaked to the press?

Ms. HANSON. It was my understanding that the reason I was receiving this information was at the request of Mr. Altman, and I understood the reason for the call was because this information was going to leak to the press. There was a policy that Mr. Altman be made aware of information involving people of prominence or companies, national companies, if the information was going to appear in the press. So, it was perfectly consistent, to my mind, with the policy that the RTC was using in terms of giving information

to Mr. Altman. Otherwise, I don't know why Mr. Altman would have gotten this information.

Senator GRAMM. Was this the first time this had happened or had it happened before?

Ms. HANSON. The first time?

Senator GRAMM. That you had been notified, as a conduit to Mr. Altman, that an investigation was going to leak to the press. Was this the first one ever, or had there been similar communications about major companies, as you mentioned, or about other individuals?

Ms. HANSON. From time to time, I spoke—I spoke with Mr. Roelle over a period of months, from time to time, and on a number of occasions I was given information that Mr. Roelle indicated would likely leak, or would leak. I served, from time to time, as a conduit for information to Mr. Altman, because he just didn't, physically, have enough hours in his day to speak with all of the people that he needed to talk to.

Senator GRAMM. In notifying you of this, they were notifying you, obviously, as their way of notifying Mr. Altman?

Ms. HANSON. That's correct.

Senator GRAMM. Did Mr. Roelle tell you why he believed that this would be leaked to the press?

Ms. HANSON. No, he didn't, but as I stated, the RTC leaked a lot and so I believed him.

Senator GRAMM. Was this referral coming to the RTC or to the Justice Department?

Ms. HANSON. As I understood it, it was being transmitted from the Kansas City RTC office to the Washington RTC office, and from the Washington RTC office it would go to the Department of Justice.

Senator GRAMM. We have our second bells for the vote on the Senate floor, and, Mr. Chairman, if it's OK with you, I'd like to stop so that we might vote.

The CHAIRMAN. Then we'll recess at this point and reserve the remainder of Senator Gramm's time, and what I'm going to do, Senator Gramm, if Senator Boxer comes back and another Senator is ready, have her start with that person, and as soon as that person finishes, we'll go back to you.

The Committee stands in recess pending the return of Senator Boxer.

[Recess.]

Senator BOXER. We'll come back to order. When Senator Riegle comes in, he will take the Chair. In the meantime—what we'll do is continue, and when Senator Gramm comes in, we'll go back to his time. If there's no objection, I can take my 7 minutes at this time. When Senator Gramm comes back, we'll go right back to him.

Ms. Hanson, I want to talk to you about this whole issue of press leaks. I want to start off where my colleague, Senator Bennett, was going with his questions because I'm trying to understand all of this and I really don't understand it. You seemed very proud that you had, in fact, briefed Mr. Nussbaum before the press leaks actually occurred. You said I was right. Am I correct in the way I'm—

Ms. HANSON. I think what I did was appropriate, absolutely.

Senator BOXER. You think it's correct. Is it in your job description to head off press leaks, to advise people at the White House that there are going to be press leaks? Is this something that you ever discussed, that your job was supposed to include that?

Ms. HANSON. I never discussed it specifically, to my recollection.

Senator BOXER. Yet you said it was for a governmental purpose. Could you elaborate on that? How is advising the White House on a press—what you fear is going to be leaked to the press, how does that really benefit our country, our Nation?

Ms. HANSON. To the extent that the White House or the President—because the President could be asked a question—to the extent that he is asked a question that mischaracterizes the information, or otherwise would put the Presidency, the President, the Office of the Presidency, the Administration, and the whole Government in a bad light, it is important that the person to whom the inquiry is going to come has the information in order to prepare to deal with the inquiries as they come.

Senator BOXER. If I just might say to you, and I really respect you and believe that you function from goodwill and good purpose, that if all we were worried about was what's going to put us in a bad light, nothing would ever get done. I venture to say, it's my feeling that with everybody's heightened concern about all this, I don't think it really served anyone very well because I agree with Senator Bennett. If there's a press leak, a question, and it has to do with something that happened 12 years ago, and there's a private attorney that's been hired to handle that situation, why not give the advice to those who would be concerned about it as follows? In other words, have the RTC press office just inform the White House press office that these questions were coming, and they have to do with something that happened a long time ago, and your advice is to refer it all to private counsel.

Ms. HANSON. It's not my understanding that there was private counsel hired at that time, but the White House also had a policy in place that, to the extent that information was going to be discussed with White House officials that related to ongoing investigations, the contact point was Counsel to the President. So, according to the White House guidance, as I understood it, as it existed at that time and as I believe it still exists, the White House Counsel was the appropriate contact point—

Senator BOXER. But you didn't work with the White House. Let me talk to you about Mr. Altman's testimony because it's troubling to me that you sat behind him and there were questions by my colleagues—Senator Gramm, Senator Bond, and I may be reiterating what my Chairman said—but it seemed to me that when you were testifying before a Senate Committee or a House Committee, and questions were asked, you had an obligation to respond in full, not to give a tortured or incomplete answer.

Now, you were there, and in your mind, you made a mental note, "We've got to go back." What does that mean, "We've got to go back"? How many days were you going to take? You knew that you had informed Mr. Nussbaum about the referrals. Is that correct? You sat there knowing that.

Ms. HANSON. As I stated, at that time, as I sat there, I realized that I had not thought—we had not prepared Mr. Altman. The en-



tire preparation focus was on the civil investigation that was underway at that time, the statute of limitations issue, the Vacancy Act issue, as it related to Mr. Altman.

Senator BOXER. I'm going to interrupt you here, if I might, for just a minute, because I think that is a tortured answer. When Senator Gramm asked his question, he didn't make a distinction. He just asked Mr. Altman if he, or any member of his staff, had discussed anything to do with Whitewater, but, yet in your mind, you only heard civil investigation. I don't understand how a reasonable person would interpret the question in that fashion.

Ms. HANSON. Senator Boxer, I take my responsibilities and my obligations very seriously. If I had been able to make those answers perfect, I would have done that. That was not possible.

Senator BOXER. But you wanted——

Ms. HANSON. May I finish?

Senator BOXER. You wanted to make them perfect at a later date——

Ms. HANSON. May I finish, please.

Senator BOXER. My time is running out so——

Ms. HANSON. This is very important to me.

Senator BOXER. Go ahead.

Ms. HANSON. I'm testifying here under oath, and I would like the opportunity to finish, if I might.

Senator BOXER. Go ahead. Go ahead, please.

Ms. HANSON. It is not possible, as one sits and listens to 4½ hours of testimony and hears the words, to respond to every issue. It's essential to have a transcript to look it over. As I stated, there were a number of things—in fact, I believed that Mr. Altman had testified to the follow-up meeting that took place on February 3, 1994. I believed it. As I left the hearing, I believed I had heard it. I believed he had testified to it. I searched the transcript after I got it, and read it over and over. I never found it because, in fact, I was mistaken.

In order to make sure that the testimony is correct, it's important and essential to read the testimony. We have here now—everyone has gone over and pored over two questions and answers, and that's appropriate, but at the time it happened, I was listening and the questions were being asked and the answers were being given, it wasn't possible to focus on the answer to every question.

And, if I just might add——

Senator BOXER. Ms. Hanson, I'm not talking to you about every question. I'm speaking, specifically, about the question that Senator Gramm asked, and I don't doubt that you believe you've been right all through this. I'm trying to give you the perspective of a reasonable person. I'm not an attorney, so when someone says, "Have you, or any member of your staff, discussed this issue with the White House," I don't expect you're going to say, "Well, I'll only answer it regarding a problem with a civil matter." I'm just trying to suggest to you that it was very important.

When you prepared Mr. Altman's testimony for Congress, I note that on it, you did not, in fact, write down that you had discussed this with Mr. Nussbaum and that you had follow-up meetings with him. That would be my last question. Why didn't you prepare him for that?

Ms. HANSON. There had not been an oversight board hearing for a year. During that period of time, the Secretary had promised that the RTC would engage in—would adopt nine reforms. There was a tremendous amount of RTC work that had gone on during that period of time, including whistleblower hearings and follow-up, the civil investigation, and the extension of the statute of limitations. There was a massive quantity of information. We did our absolute best to try to anticipate every question, and that one was not anticipated.

Senator BOXER. So, you didn't brief him, in writing, to this question and, then, when it occurred, you thought you'd fix it up later. Is that a fair summary?

Ms. HANSON. As I said, I had no—Mr. Altman, I understood—

Senator BOXER. Is that a fair summary?

Ms. HANSON. —was testifying to his recollection.

Senator BOXER. Is what I just stated a fair summary? You didn't think it was important enough to include in the written preparation and, when he didn't discuss it when asked by Senator Gramm, you thought you'd fix up the record later on that point.

Ms. HANSON. I disagree with everything that you've just said.

Senator BOXER. That's not correct. I will withhold, because I'm missing a point here, and I will come back later.

Senator Gramm.

Senator D'AMATO. Senator Boxer, if I might, I'd just like to make an observation. That is, Ms. Hanson, notwithstanding that this was an RTC oversight hearing, it was very clear that the Republicans were interested as it related to Whitewater and only as it related to Whitewater. They weren't interested in the reforms. Let's be candid. So, I find it difficult to understand how there was this mass of documentation when we were interested—and, indeed, you knew what we were interested in and were prepared for our interest in the question of contacts with the White House. I told that to Mr. Altman the night before on the telephone.

I yield to Senator Gramm.

Ms. HANSON. Sir, Mr. Altman didn't give me that information. If he had—

Senator D'AMATO. That's what shows it's even more incredible and incredulous. The night before I told him—he called me and I said, "We're going to ask you about contacts with the White House. I want you to know that."

Senator Gramm.

Senator GRAMM. Ms. Hanson, let me go back and verify that I've heard you correctly. When you had this meeting on February 2, 1994, as I heard your testimony, the first thing that Mr. Altman talked about at the meeting was whether he should recuse himself or not. Right?

Ms. HANSON. At the meeting on February 2, 1994, Mr. Altman first talked about the statute of limitations.

Senator GRAMM. Then he talked about the recusal?

Ms. HANSON. Yes, sir, he went through the talking points.

Senator GRAMM. When Mr. Altman testified, he had before him, as I understand it, this outline of potential questions which you helped put together. The first thing on the outline—it starts out on the question of recusal, then it talks about RTC-Treasury contacts,

about Fiske, about Madison history, criminal referrals, the Madison investigation, the extension of the statute of limitations, and prior regulatory history on Madison Guaranty's collapse. In fact, it is 54 pages, largely about Whitewater and Madison, which is, obviously, what the whole hearing was about. We all know it, and, obviously, you knew it because you prepared this information.

Ms. HANSON. I didn't prepare that information, sir. It was prepared by the RTC.

Senator GRAMM. OK. You have seen it though. Is that right?

Ms. HANSON. I don't have a copy of it.

Senator GRAMM. Mr. Chairman, let me, if I may, get somebody to take this over to her to see if, in fact, she has seen it.

The CHAIRMAN. If you could hand it to her, please. Just glance at it and see if that's something you've seen before.

Senator GRAMM. Is that, in fact, what Mr. Altman had in front of him when he was testifying? It's my understanding that's the case. If it's not—

Ms. HANSON. Sir, there were many drafts of this. I think that this is the last one, but I can't be certain just looking at it.

Senator GRAMM. It is a draft, if it's not the—this is the one that was given to us, as I understand it, as what he had before him. Now, you were present when the recusal discussion occurred on February 2, 1994. The first item he had on his briefing paper for the hearing, that he was going to use on this issue, if he were asked—and, obviously, he was asked—was the recusal question.

When Mr. Altman was asked, first by me and then by others, about White House contacts, asked not on one occasion but on three separate occasions, he said that there was one—he said there was “one substantive” contact. Then, Senator Domenici asked, “Now, you're not suggesting that you had more than one contact or your office had more than one contact, are you?” Mr. Altman said, “No.” Then, Mr. Altman said, “I'm just saying if I run into someone in the hall, if you see that something is in the paper this morning, I'm not including that.”

You were sitting behind him. You heard him say this. You knew that was not correct, and you knew that Mr. Altman knew that was not correct. Is that not right?

Ms. HANSON. In terms of—as I stated, I thought that he had testified on the February 3, 1994, follow-up meeting.

Senator GRAMM. In the record of the hearing, I asked him—in fact, you read my question. He answered my question by saying that he had one substantive contact, or that there had been one substantive contact between his staff, or himself, and any of the people listed in the question asked. Then, when Senator Domenici followed that up and said, in essence, “You keep using this term ‘substantive’. Are you implying that there was more than one contact?” Mr. Altman said, “No.” He said, “No, I'm just saying that if you run into somebody in the hallway.” You were sitting behind him. You knew that was not correct. Is that not right?

Ms. HANSON. Sir, if I understand your question correctly, I understood Mr. Altman, at that point, to be answering in terms of his own contacts. I understand, Senator, going back and looking carefully at the transcript and looking at your question, your question is sufficiently broad that it would require inclusion of all contacts,

whether they were substantive or involved matters that were trivial. I believed, at that point, that Mr. Altman was testifying to the best of his knowledge.

As I have stated, on the fall contacts, when the question was asked by Senator Bond, I realized that we had not—there had been no preparation on that. I did not know what his recollection was. I had a very unclear recollection myself, because I hadn't thought seriously about the fall events for many months. It was not, in my view, at that point, an appropriate time to try to deal with that, in the middle of the hearing. It required getting the transcript and going through the transcript, carefully, to make sure that, in reading a question like the one you posed, he had actually answered the question, because, as I say, your question was much broader than what he was prepared to respond to. I understood that he was responding to your questions in terms of his own contacts.

Senator GRAMM. I'm going to come back to that. Mr. Altman then says, on three occasions, that the only subject matter he had discussed had to do with the statute of limitations. You have already testified that you knew that was not correct, because you were at the meeting on February 2, 1994. Right? You knew that the recusal issue had been discussed.

Ms. HANSON. That's correct.

Senator GRAMM. You said that you did not pass him a note or try to correct his testimony, because you knew that he would have an opportunity to correct it later. Is that not right?

Ms. HANSON. I didn't correct him, at that point, because the opportunity had passed. I didn't know, at that point, why he had not included the recusal discussion. It could have been for any number of reasons. He might have just forgotten it. There were, as I say, the questions and answers that were prepared to serve as a guide. His draft answer in the prepared questions and answers, that were in the briefing book he had at the hearing, included the recusal discussion. I didn't know why it hadn't been included, and I intended that it would be discussed.

Senator GRAMM. Mr. Altman was asked this not once, of course, but on several occasions in that hearing. Then, when you wrote—when the letter was written, his first letter where he begins a clarification process, never in that letter does he mention the recusal issue. You read that first letter. Right?

Ms. HANSON. This is on March 2, 1994?

Senator GRAMM. This is the March 2, 1994, letter, yes.

Ms. HANSON. Sir, at that point, to my recollection, I still didn't have a transcript, and I still hadn't had an opportunity to review the transcript. As I previously testified, that letter was written for a very specific reason, and to give very specific information. It was not intended to be a complete supplementation of the record. It required reading the transcript in order to do that because, if it had included one piece of information and then the transcript was reviewed and it was determined that there were six other pieces of information, some of which might have even been more important, he might then have been faulted for why he hadn't included that information in the original letter.

Senator GRAMM. Ms. Hanson, if I may go back to it, you've already said that you knew, in fact, that you wondered, as I recall,

why he didn't mention recusal. Now, he didn't mention it. He had several occasions to mention it, and then on March 2, 1994, he writes us a letter to start clarifying. You read that letter before it was sent to us. Right?

Ms. HANSON. I did.

Senator GRAMM. Did you say to him, "You were asked the question about subject matter. You answered it three times without mentioning recusal, which was the first item on the notes you had in front of you, and maybe you ought to mention it now that you're writing a letter to clarify"? Did it strike you that maybe this was an opportunity to tell the Committee about the recusal issue?

Ms. HANSON. Actually, sir, it didn't. That letter was written for a specific purpose, to let the Committee know that there was going to be a newspaper article, that appeared the following day, that talked about the two fall contacts. That's why the letter was written. It was not written with any intention of clarifying or supplementing the record completely. It required looking at the transcript and doing—

Senator GRAMM. You're saying he would not have written this letter had the article not been coming out the next day that contradicted his testimony?

Ms. HANSON. I have testified that what we expected to happen was to get a copy of the transcript, review that copy of the transcript, and supplement it as was necessary. We were waiting for written questions. We had been told that we would receive many written questions, and we intended that to be completed in an orderly, thorough, professional process.

Senator GRAMM. Didn't you review the videotape the next day?

Ms. HANSON. I did not.

The CHAIRMAN. Did Mr. Foreman say that she had?

Senator GRAMM. Yes.

The CHAIRMAN. Apparently, there is—someone had indicated that their belief was that you had viewed it, but your testimony here, today, is you did not view the videotape after the hearing?

Ms. HANSON. No. It's my recollection that Mr. Foreman taped that video—made that videotape over the weekend, because the hearing was played on Saturday night, and I believe he's just mistaken. I was doing other things on the day after that Friday, and wouldn't have had 4½ hours to watch it.

The CHAIRMAN. Did you then see it at some later time?

Ms. HANSON. I did not.

Senator GRAMM. Let me go back to my point. I think what we're all trying to get at here is, you, in essence, have said that you knew, during Mr. Altman's testimony, that there had been more than one meeting. You knew there had been more than one subject that had been discussed. You knew that with certainty, but it didn't matter because you were going to have an opportunity—Mr. Altman was going to have an opportunity to go back and clarify it.

Mr. Altman had an opportunity to clarify in the letter he wrote and did not. He had an opportunity on March 3, 1994, in another letter he wrote, but didn't clarify, and he had another opportunity in another letter he wrote on March 11, 1994. At what point are you accountable for what you say? Do we take this position that you can come before the Committee, say anything you want to say,

something that is verifiably false and, then, you can send the Committee three letters without ever going back and saying, "I was wrong"? If, at some point in the future, you come back and, at last, clarify the record, then is it all well and good? Can you say that, when you were asked the question and provided answers that were wrong on the two points you made, first, that there had been only one substantive contact and, again, repeated in a follow-up question from Senator Domenici, that there had been only one contact? We now know there may have been 20 or 40 contacts. Second, Mr. Altman volunteered, himself, that there had only been one subject matter discussed, and he didn't mention recusal at all. Are you really saying that none of that mattered, three letters, a clear and reiterated testimony, because you could still later send another letter to strike it all out?

Ms. HANSON. Sir, that's not what I've said. That's not at all what I've said. What I've said, is that it required getting the testimony and looking at it. Before I had the opportunity to look at the testimony, Grand Jury subpoenas were served. I never had the opportunity to complete the process and review the transcript.

The CHAIRMAN. Senator Gramm, I'm going to give you the time you need, although the time has expired and I should rotate now, but—

Senator GRAMM. Thank you, Mr. Chairman.

The CHAIRMAN. —you're not going to be foreclosed from further questions if you have them.

Senator GRAMM. I have here—and correct me if I'm wrong—and this is the testimony—that the White House had the testimony on March 1, 1994. Maybe you ought to pass this up as well.

The CHAIRMAN. Senator Gramm, what I've got to do, because the time has run well over, I think, is rotate and then come back to your side.

Senator Kerry.

Senator KERRY. Thank you, Mr. Chairman.

Ms. Hanson, I think you should know that the concerns expressed by the Senator from Texas are shared by all the Members of the Committee, and I think that there is a very deep concern here about—particularly in light of Senator D'Amato's statement about a conversation the night before—about the candor of that statement. We're, obviously, going to pursue that further.

I'd like to go to another area that I think is as central as the area that the Senator from Texas was asking about. I notice, from your curricula, that you've had a significant amount of legal experience and a terrific career, ranging from work in probation and as a legal defender and in a private law firm, a distinguished private law firm. But you've never served as a regulatory lawyer or as a lawyer responsible for regulatory oversight. Is that correct?

Ms. HANSON. No, sir, I have not.

Senator KERRY. It strikes me that there is, in this series of events, perhaps confusion that inadvertently overtook you and the Treasury Department with respect to which hat you were wearing, at what point in time, whether you were representing Mr. Altman as Counsel to the Treasury or whether you were representing him as he played out his role for the RTC. It troubles me greatly—let

me ask you, were you aware that the criminal referrals were confidential?

Ms. HANSON. Yes, sir, and I believe I acted in accordance with the confidentiality requirements.

Senator KERRY. You knew the RTC had a procedure with respect to keeping it confidential, other than the possibility of leaks? I mean, the procedure of the RTC was to maintain confidentiality because, after all, they are merely referrals to the Justice Department, and any name in them could indeed wind up in somebody's reputation being injured, so confidentiality is critical.

Ms. HANSON. Yes.

Senator KERRY. You only learned about that in your capacity of the RTC hat. Is that not accurate?

Ms. HANSON. I learned about it in my capacity as the General Counsel of the Treasury. Mr. Altman asked——

Senator KERRY. Would the General Counsel of the Treasury normally be told about RTC procedures of criminal referrals?

Ms. HANSON. Mr. Altman asked——

Senator KERRY. Would you answer my question? Would they normally——

Ms. HANSON. No, they would not.

Senator KERRY. Was this the first criminal referral you were ever told about?

Ms. HANSON. I knew about other criminal referrals, none involving insolvent thrifts. Others, involving personnel action.

Senator KERRY. Did you receive telephone calls from the RTC notifying you of other criminal referrals?

Ms. HANSON. Not to my recollection.

Senator KERRY. This is the only one the RTC notified you about?

Ms. HANSON. As it relates to insolvent thrifts, yes, sir.

Senator KERRY. Did you never sense, as a lawyer, a responsibility that you had gained information only in your regulatory capacity, but you were, in fact, imparting it to people who, in one form or another, fell under that regulatory capacity?

Ms. HANSON. Sir, it's my understanding that the RTC is not a regulator. The RTC, in the capacity in which it was acting——

Senator KERRY. It has the power of subpoena——

Ms. HANSON. It does have the power of subpoena.

Senator KERRY. The power of bringing criminal referrals, the power of bringing civil suits, and you don't call it a regulator?

Ms. HANSON. It's not my understanding that it is a regulator, sir. It does have those powers, you're absolutely right, but I—my communication of that information was solely for a governmental purpose, and the Office of Government Ethics has so concluded itself.

Senator KERRY. I'm not sure I agree with their assessments, I might add to you. I've read it very closely, and the assessment of the memo that went to Mr. Altman talks about legal requirement, and is based strictly on a legal finding. But ethics, conflict of interest, and propriety hang on appearances that go well beyond legal requirements. That is, undoubtedly, what brought you, Secretary of the Treasury Bentsen, Ms. Kulka, and Mr. Ryan all to conclude that Mr. Altman ought to recuse himself, is it not?

Ms. HANSON. No, sir.

Senator KERRY. You didn't think there was potential conflict here beyond legal?

Ms. HANSON. Mr. Altman was given a written opinion ultimately, oral initially, and then written opinion, by the ethics officers, stating that his recusal was not mandated by ethics, law, or regulation.

If I just might finish, sir, and it went on to say that the appearance issue has to be decided—the standard for determining whether there's an improper appearance is decided on the basis of a reasonable person in possession of all the facts and circumstances—

Senator KERRY. I understand—

Ms. HANSON. —and that was Mr. Altman's judgment to make, whether or not he could act impartially. My recommendation was based on my view that there was going to be such public clamor and political criticism, that he couldn't—that the appearance was that he couldn't be impartial—

Senator KERRY. But that is—

Ms. HANSON. —not that he, in fact, couldn't be impartial.

Senator KERRY. I understand that, but that is exactly at the center of the kind of choice you make in a recusal. I mean, you're a lawyer. You understand that appearance of a conflict is as essential to the choice as the actual conflict.

Ms. HANSON. Again, from the ethics point of view—

Senator KERRY. Don't you? Do you understand that?

Ms. HANSON. That the appearance is as central as the conflict?

Senator KERRY. Yes.

Ms. HANSON. Yes, but in making that assessment, under the ethics rules, the standard is a reasonable person in possession of all the facts.

Senator KERRY. As reasonable a person as you were, as reasonable a person as Secretary Bentsen was, as reasonable a person as Ms. Kulka was, and as reasonable a person as Mr. Ryan was, everyone thought there should be a recusal. I don't have enough time here, unfortunately, to pursue this, but I want to come back to something else that strikes me as really central. I wish we had a little more time to develop this, but on September 27, 1993, you told Mr. Altman what you had heard from Mr. Roelle, and on September 29, 1993, you saw Mr. Nussbaum, and talked about press leaks. On September 30, 1993, there was the Early Bird copy that came around. On October 6, 1993, there was a call from Mr. Roelle about Sue Schmidt. Then, you called the White House and talked to Cliff Sloan. That was the third notice the White House received.

On October 11 or 12, 1993, there was a call to the Altman office, Jack DeVore was there talking about The New York Times. Then, there was a subsequent meeting October 14, 1993, and there was a White House meeting, and there was another White House meeting. It just strikes me that there's an incredible amount of scurrying around for a very simple thing. If, as you have said, this was confidential, it was not to be put out in any way, then it strikes me that, much as Mr. Bennett has said, it's very simple. I mean, you don't comment on these things. There's nothing to talk about, and you certainly don't sit down for meetings with Chiefs of Staff of various players and other people to discuss "even procedure," not substance, as you put it.



If, indeed, that procedure is a decision that belongs within the agency, the RTC, not even fundamentally, but broadly speaking, given the conflict potential within Treasury, it strikes me there's an awful lot of meetings here for people to deal with the press when the whole thing is supposed to be confidential.

Ms. HANSON. Sir, I only know of two meetings.

Senator KERRY. You were meeting, on many occasions, within—you met, as I say, with Mr. DeVore, with the Secretary. Correct? You made telephone calls. I mean, the whole purpose of this, I thought, was to understand how to deal with press inquiries. Is that correct?

Ms. HANSON. The whole purpose of it was to put people on notice so that they could intelligently deal with press inquiries.

Senator KERRY. I notice they got a lot of notices. The only answer for those in the White House is, "This is under the RTC. It's inappropriate for us to know—we can't know anything about it. We don't know anything about it, and that's it." I don't understand why the people who are supposedly the subject, conceivably, of a decision the RTC made, are learning about the statute of limitations choices in front of the decisionmaker.

Ms. HANSON. Are you talking about the February 2, 1994, meeting?

Senator KERRY. That happened at the February 2, 1994, meeting. That's correct. It also happened—yes, at the February 2, 1994, meeting.

Ms. HANSON. The February 2, 1994, meeting, sir, was entirely procedural.

Senator KERRY. I understand that. My question to you, was it appropriate? What, in your mind, strikes you as appropriate in the various parties that were present discussing that particular issue at that moment in time? That's what I'm having difficulty with. Maybe you can tell me.

Ms. HANSON. If you recall, during that period of time, Senator D'Amato and I believe eight other Congressmen had written a letter to Janet Reno, the Attorney General, with a copy to Mr. Altman, relating to the statute of limitations with respect to Madison Guaranty, on the criminal side and on the civil side and pointing out that the civil statute of limitations had been extended for a period of 5 years but was going to expire soon. Over a period of several weeks, those latter weeks in January, there were increasing—there was increasing interest, press attention, and congressional interest in what the statute of limitations was, when it expired.

As Senator D'Amato said—I heard him earlier today—there was some discussion as to whether it expired in August, and why this had all become an issue. It was not clear to anyone, other than someone who sat down and studied it, why it was that this had, all of a sudden, become an issue and was—there was such a sense of urgency about it. It was misunderstood. It was misunderstood by most people who were involved in the process. The sole reason for talking with the White House people about the statute of limitations issue was to make sure that they understood it, that there were going to be decisions that were going to have to be made. There were going to be actions taken, in a relatively brief period of time, that were going to have repercussions.

Senator KERRY. My time is up. I don't want to abuse the time again. I would just say to you, that the kind of meeting that took place still strikes me as somewhat excessive and even strange. There are ways to communicate that information that would not raise the kind of questions we are now here trying to answer. I think, in terms of antenna—the antenna on this was either not up or very finely tuned or we wouldn't be here.

The CHAIRMAN. Thank you, Senator Kerry. I think, for the record, I should just include one item that we touched on a moment ago, and that's on viewing the videotape of the hearing after the hearing. In your deposition, Ms. Hanson, you were asked the question, "Was there ever a time you remember sitting with Mr. Foreman with a videocassette recorder playing a videotape of the C-Span hearings of the record," to which you answered, "It was immediately after the conversation with Mr. Altman that I've just recounted." That was over on another page, but it indicates that happened early the following week after the hearing.

This is what Mr. Foreman said. He was asked the question as well, and he said:

I believe that some of the hearings were replayed that night and I made a tape of it. I think it was that Thursday night. I think I watched some portions of it. I replayed it the next morning, in the office, and Ms. Hanson was particularly focused on Senator Bond's questions. In response to your question, sometime Friday morning. I guess I either heard from her what the question and answer was or perhaps saw it on the tape sometime Friday.

I don't want to get hung up on this, but I think the record should clearly show that, after the hearing, there was some interval in which you reviewed all this, you were able to refresh yourself as to what was said, what the questions were, and what the responses were. I think, if we lay those aside, Mr. Altman's letters, clarifying letters, the four of them that came, that there really—I don't think there's a plausible explanation as to why this record wasn't corrected very, very promptly.

In fact, it should have been given in its complete form at the time, because he had the knowledge, you had the knowledge, the briefing material was there. It had all been gone over just ahead of time, but, certainly, after the fact, to have that kind of a delay occur. Then, all of these partial and incomplete letters come in. There's really no satisfactory explanation for that, that I can see, based on everything we've seen so far.

I yield to Senator D'Amato.

Ms. HANSON. May I respond?

The CHAIRMAN. Yes, briefly.

Ms. HANSON. I believe that Mr. Foreman—I know Mr. Foreman is mistaken about watching the video on Friday. I recall that it was the following week, I believe on March 1, 1994, and we were, specifically, looking for Senator Bond's questions.

The CHAIRMAN. Here's my point to you, then. That's March 1, 1994. The first letter from Mr. Altman clarifying his testimony comes on March 2, 1994. A period of 10 days elapses when there was not only an incomplete but, I think, a misleading set of responses on the record.

Ms. HANSON. Sir, it wasn't 10 days. If you recall, February 24, 1994, was a Thursday. On February 25, 1994, Mr. Altman recused himself at the end of the day on Friday. Then there was Saturday,

Sunday. Monday was February 28, 1994. Tuesday was March 1, 1994. That was when we played the tape, on March 1, 1994. So that was actually 3 days. The first letter came in on March 2, 1994. But, sir, I had been asking for a transcript. I asked, repeatedly, for a transcript. I don't know why I didn't get a transcript, but I didn't have a transcript nor, to my knowledge, did anyone else in Treasury. Why the White House had a transcript on March 1, 1994, and I did not, I don't know. I asked for one repeatedly. I didn't have one. If I had one, I would have read it.

The CHAIRMAN. I'm trespassing on the time.

Senator Sarbanes.

Senator SARBANES. Perhaps I misheard earlier. I thought you had stated that you had not seen this video at any time.

Ms. HANSON. No, I believe that I was asked whether I viewed it with Mr. Foreman the day after the testimony.

Senator SARBANES. No, but I thought the question, then—perhaps I'm not recollecting well, but I thought the question then went beyond that, and asked more generally whether you had seen the video.

Ms. HANSON. If it did, I would like to clarify the record. I did look at a portion of the tape with Mr. Foreman. I believe it was on March 1, 1994.

Senator BENNETT. My memory is the same as the Senator from Maryland's. I'm glad to have that clarification.

The CHAIRMAN. It's late in the day and you've been here a long time. It's tiring. That's why it's important to pin these things down. If there's a mistaken impression, we can get it cleaned up, then, if there's a difference of opinion between witnesses, we can decide who's the most plausible.

Senator D'Amato, the time is on your side.

Senator D'AMATO. I'm going to yield to Senator Gramm, if I might, but I'd like to make an observation I think the Chair has pointed out. Senator Sarbanes has alluded to it. Others have. It is inconceivable to me how, as a counsel and a distinguished and skilled lawyer—you didn't get to be General Counsel because you didn't have talent. You didn't have political connections. People were impressed. You had prepared Mr. Altman, and the issue of recusal was one of great significance. You testified to that. Later on, I'll get back to that. You testified he didn't undertake the recommendation. You testified, when the Deputy Chief, Harold Ickes, said you should forget it, "No, I won't. If I'm asked, I'm going to say it. Mr. Ickes understands."

Regarding the February 2, 1994, meeting, the notes you prepared for it say, "I have decided I will recuse myself in the decisionmaking process," and then, you specifically said, "Yeah." You looked at Senator Bond, as he undertook this question again. You allowed a letter to go out which you helped to prepare and which came to the Committee on March 2, 1994, without any attempt, whatsoever, to correct that situation which you were concerned about and which you watched on television with Mr. Foreman.

Now, that is being, at the very least, less than candid and frank and gives us something that is so distorted, that it's not worthy in the least.

I yield to Senator Gramm. That's my observation.

Ms. HANSON. Sir, may I respond?

Senator D'AMATO. It's not a question.

Ms. HANSON. May I respond?

Senator D'AMATO. No, it's not a question, it's an observation. You can do it on someone else's time.

Senator GRAMM. Thank you, Mr. Chairman. Let me go back and be sure that—

Senator D'AMATO. I have to tell you, if you want to respond, I still want to see that Senator Gramm gets his time.

The CHAIRMAN. By all means. Why don't you go ahead and respond. You can respond on my time and we'll protect Senator Gramm's—we're going to give Senator Gramm all the time he needs on this issue. I've told him that, and I intend to see that it's done. Why don't you go ahead and make your comment, Ms. Hanson, then we'll go to Senator Gramm.

Ms. HANSON. Sir, I take my responsibilities very seriously, and I did everything that I could, consistent with my responsibilities as I understood them. You may disagree, sir, but I believe that I discharged my responsibilities consistent with what they are. Events occurred that I didn't anticipate, and if they hadn't occurred, we wouldn't be here discussing this, but they did.

Senator GRAMM. Mr. Chairman—

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Let me, first of all, clarify things. As I always tell my children, don't argue about facts; argue about theory. So, let me just clear up the facts.

In the deposition of Clifford Sloan, he says that the White House had a rough copy of the transcript by Monday, February 28, 1994. We know that they had the complete transcript by March 1, 1994, because Mr. Podesta put the copy of the transcript in a memorandum to the file. We know that, in fact, Mr. Podesta called Mr. Altman on March 1, 1994, and we know, from Mr. Cutler's testimony, that he said to him, that he expressed concern "with Mr. Altman's omission of the fall meetings and his possible recusal as a subject of discussion on the February 2, 1994, meeting."

We know that Mr. Altman was called on March 1, 1994. We know there were at least two different copies of the transcript before March 1, 1994, and we know that you watched the tape on March 1, 1994. We know that, by February 28, 1994, Josh Steiner, who was the Chief of Staff at the Treasury Department, wrote the following in his diary. He wrote, "At the hearing, the recusal, amazingly, did not come up. The GOP did hammer away at whether Roger Altman had had any meetings with the White House. He admitted to having had one to brief them on the statute deadline. They also asked if staff had had meetings, but Roger Altman gracefully ducked the question and did not refer to the phone calls he had had."

Now, the Chief of Staff knew that Robert Altman had gracefully ducked the question—

Ms. HANSON. Roger Altman.

Senator GRAMM. Roger Altman. Please forgive me. I'm sorry—that Roger Altman had gracefully ducked the question. Two copies of the transcript were available. You had watched the tape, and yet, when the letter was written to us, nowhere—if I could have

the letter just one second—nowhere in this letter is there any reference to the fact that you hadn't had a chance to look at the transcript or look at the tape.

In fact, not only are there two copies available, not only have you looked at the tape, but Mr. Podesta, from the White House, called and said to Altman in a direct conversation, "We think, on two issues, that you didn't tell the Committee the truth: One, you didn't mention the two meetings"—and this language suggests that he, at least, believed that Altman knew about those meetings—"and you didn't mention one of the subject matters you talked about." And yet, Mr. Altman sends us a letter on March 2, 1994, where he never, ever mentions the issue of recusal.

In fact, by what you said today, on the recusal issue as discussed on February 2, 1994, Mr. Altman had said that he wanted to recuse himself. It was discussed. You say he wasn't under pressure, but yet, 22 days later, when he appeared before this Committee, he hadn't done it and he didn't do it until we asked him the question.

I guess what I'm getting back to is this: You're the Legal Counsel of the Treasury Department. As I understand it, your job is seeing that people comply with the law. I can't understand this letter—I don't understand the testimony—I don't see how somebody could be asked, point-blank, about contacts, and they say, definitively, there's only one, though now we know about dozens of them. I don't know how someone could say, three times, that he talked only about one subject, and that subject was the statute of limitations, when, in fact, tremendous amounts of discussion had gone on about recusal. I don't understand that, there is no explanation for this March 2, 1994, letter. At least I'd like to give you an opportunity again, now that nobody is confused about the fact that there are transcripts out there. You have seen the tape. Roger Altman received a telephone call from the White House warning him that he had not told the Committee the truth. Why this letter?

Ms. HANSON. If I might, to make it clear, I did not watch the tape. The reason I know that it was March 1, 1994, when I viewed a portion of the tape, was because when Mr. Podesta called Mr. Altman and told him about his responses to Senator Bond's questions, Mr. Altman asked me about it, and I had—we had to find a cassette player, a tape player, and find Senator Bond's questions because we didn't have a transcript.

Now, why the White House had a transcript on Monday, or a draft on Monday and a transcript on Tuesday, and I didn't have a copy, to my recollection, I haven't any idea, but that is where I was. In addition, I didn't have a transcript when the letter was written and the letter, as I said before, was intended to deal with one specific issue, that is, the fall meetings. I don't recall having a discussion with Mr. Altman about the recusal issue as it related to that letter, or hearing, that Mr. Podesta had raised as an issue with Mr. Altman in his conversation.

Senator GRAMM. Ms. Hanson, did you ever have any doubt about the fact that there had been a recusal discussion on February 2, 1994?

Ms. HANSON. No, sir.

Senator GRAMM. And yet you heard Mr. Altman say, point-blank, three times, that no discussion had occurred of any subject, except

the deadline, the February 28, 1994, deadline. I just continue to be puzzled. It's not as if the March 2, 1994, letter ended all this. He wrote another letter on March 3, 1994. He wrote another letter on March 11, 1994. Not until March 21, 1994, does he mention this issue as part of the February 2, 1994, meeting. Why?

Ms. HANSON. Sir, I don't know. As I stated, on March 4, 1994, Grand Jury subpoenas were served. Under instruction from my counsel, I no longer talked with anybody about the Madison matter or worked on the Madison matter. At that point, I still hadn't had an opportunity to read the transcript. I didn't have an opportunity to read the transcript until the weekend after the subpoenas were served. So the answer to your question, sir, is I don't know.

Senator GRAMM. I just would like to make the point on this subject, that you're not an employee of the RTC. I guess I can understand filling in for Mr. Altman because he's busy. I understand that. I have people on my staff that do things for me, trying to fill in for me. I understand that.

What I don't understand is, you are the General Counsel of the Treasury Department. These things are your job, and it seems to me that, of all the other issues, having Roger Altman tell this Committee the truth was an important part of your job. He had all these opportunities, after he's been warned by the White House, he, or someone, has watched this tape, two different transcripts are available, yet not until March 21, 1994, does he get around to telling us this.

It's something that I don't understand, and it seems to me, by any reading of your job description, that this was part of your job.

Ms. HANSON. I disagree, sir.

Senator GRAMM. Now, let me—

Ms. HANSON. I don't think it was my job to physically locate a transcript. I think it was my job to ask for a transcript, which I did, repeatedly. As I stated, why I didn't have one, I don't know.

Senator GRAMM. When did you see a transcript?

Ms. HANSON. It was later in that week.

Senator GRAMM. Why did we not get the letter about the subject matter—the second subject matter of the February 2, 1994, meeting, then, until March 21, 1994?

Ms. HANSON. Sir, as I stated, I don't know the answer to that. After March 4, 1994, when the Grand Jury subpoenas were served, I no longer was working on Madison—anything related to Madison.

Senator GRAMM. Let me go back to February 23, 1994. This is the day before the hearing that we're all talking about. From looking at telephone logs, testimonies, and statements that have been made under oath, it must have been a frantic day at the Department of the Treasury, because on that day, we had one, two, three, four contacts. This is the day before the testimony. Everybody knows it's coming. It's obvious that there's great concern about it. There are 54 pages of questions and answers for Mr. Altman about Whitewater. So, obviously, this is a day of intense activity.

We know that Mr. Altman called Harold Ickes on that day. Remember, this is one day before the hearing. The purpose of this discussion had to do with stepping down from the RTC. Then, Harold Ickes calls Mr. Altman and is transferred to Josh Steiner, and he

discusses recusal as well as the decision to step down. Steiner relays the information to Altman.

Then, at Altman's request, according to your deposition, you called Nussbaum to inform him that Altman will have no participation in decisions with regard to RTC civil matters. Then, Eggleston calls you and asks what Altman's response will be to a question at the Banking Committee hearing, and you read him the prepared question and answer.

Now, it seems to me, at least trying to put all this together—and, of course, you were there. We weren't there—but, it seems to me, this must have been a whole day of activities where there's communication back and forth between the Treasury Department and, therefore, the RTC, because Mr. Altman is Acting Head of the RTC, and the White House, all day long. We know of at least four communications, two of which you were directly involved in.

Ms. HANSON. Sir—ask your question.

Senator GRAMM. Now, one day later—

Ms. HANSON. Oh, wait. May I respond to that?

Senator GRAMM. Sure.

Ms. HANSON. It was a hectic day. It was an extremely hectic day, but not because people were calling back and forth. With respect to Mr. Altman's calls and Mr. Steiner's calls, I don't know anything about them. I was asked to call Mr. Nussbaum and tell him what Mr. Altman's response was going to be with respect to the Vacancy Act. That is that he was—the Vacancy Act appointment would expire. He would not be the CEO after March 31, 1994. That would mean, because the statute of limitations had been extended at that point, that he would not be involved in the civil investigation. I made that call. And Mr. Eggleston called me, but as I—it wasn't a flurry of activity. These were two short calls.

Senator GRAMM. Here's my question. We're trying to ascertain—we weren't there. We don't know—we're trying to ascertain how it could be that Mr. Altman could answer the way he did. When Mr. Altman was asked, "How many contacts have you had with the White House about this whole issue of Madison/Whitewater/RTC?" he answers, "One substantive meeting," and then on follow-up, he says, "Only one contact," and yet, the day before—we're not talking about weeks that people could forget, we're talking about the day before. We've got documentation on four contacts, two of which you were a part of, and yet, nowhere do we see mention of these four contacts, even in any of these letters, four letters later. I'm not aware, that any of these contacts, which occurred the day before Mr. Altman testified, were mentioned to us by Mr. Altman.

He said there had been one substantive meeting, and that was this February 2, 1994, meeting, but yet, we now know there were four contacts, at least, the day before he was here before the Committee. The subject matter of most of those contacts was recusal, and yet, he sits there and never mentions recusal in his answers, and you're sitting behind him. Never does he mention the subject matter, which clearly dominated the Treasury Department, or his little piece of it, for that entire day, beforehand.

Can you explain—

Ms. HANSON. Sir, I disagree, that it dominated it for the entire day. It certainly did not. Mr. Altman—Mr. Altman's prepared ques-

tion and answer only related to his contacts, and that's what he responded to. His prepared answer didn't relate to contacts by everyone else on the staff. He was not prepared to answer that.

In fact, as I sat there and listened to your question, I realized that he was responding only with respect to his contacts, because that was what his prepared response was. I didn't realize, in preparation for the oversight board hearing, that the Committee would want information with detail on every single contact between anyone in the White House and anyone in the Treasury on any—no matter how trivial or insignificant.

If that was what was—if that is what the Committee wanted, that answer was not prepared, and would have had to have been prepared in response to reviewing the transcript and the follow-up questions.

The CHAIRMAN. Senator Gramm, excuse me, just for a minute, because we're well over and I want to give you all the time you need, as I said I would. But, I think we do have to rotate within the general bounds—

Senator GRAMM. Could I make one final point?

The CHAIRMAN. Yes, of course. The witness has asked if she could have a brief pause and I think she's entitled to one. Then we'll continue. Why don't you go ahead and make your last point, then we'll recess for 5 minutes or so.

Senator GRAMM. I'm not trying to badger. I'm trying to get the facts. But I don't think you can say—and I want to go back and look at this 54-page briefing paper to see what, actually, he had been prepared to answer, and we can do that while we're on our recess—but I don't think you can expect us to accept the assertions as to why he didn't answer our questions. In light of the questions that we asked, what he said was not true, but we cannot be expected to accept that he was answering different questions than the ones we were asking. I mean—

Ms. HANSON. That's not what I've testified, sir. What I've said, is that he responded to a part of your question. He was not prepared to respond to all of your question, because your question was much broader than his prepared response was and, frankly, based on what you're saying now, what I even would have prepared for him—

Senator GRAMM. But he knew about these conversations—

Ms. HANSON. —or what everyone else prepared for him.

Senator GRAMM. He was part of them. Why did he have to be prepared for that?

The CHAIRMAN. Why don't we do this. We're going to continue as long as we need to. The witness has indicated that she would like a brief pause, and we'll take a 5-minute pause here. When we resume, Senator Sarbanes will start on our side, and we'll continue. Why don't we recess for 5 minutes and then we'll resume.

[Recess.]

The CHAIRMAN. Let me invite all those in the room to find seats so that we can resume.

Let me now yield to Senator Sarbanes from Maryland.

Senator SARBANES. Thank you very much, Mr. Chairman.

Ms. Hanson, first of all, I want to follow up on this transcript issue. Did you try to get a copy of the transcript?



Ms. HANSON. I did, repeatedly.

Senator SARBANES. From whom?

Ms. HANSON. I asked my special assistant.

Senator SARBANES. Did they come to the Committee to try to get a copy of the transcript?

Ms. HANSON. Sir, I don't know. I don't know what was done. I do know that I asked, repeatedly, for a transcript, and I didn't have one nor, to my knowledge, did anyone in Treasury have one.

Senator SARBANES. I assume the people in the Treasury were expecting you—do you know who Fran Davis is at Treasury?

Ms. HANSON. No, I don't, sir.

Senator SARBANES. I've been handed a note that a transcript went to Treasury the next day.

Ms. HANSON. I did not have a copy. In fact, when Mr. Podesta's call came in, Mr. Foreman and I had to search the videotape in order to locate the Bond—Senator Bond's questions, which was all that we did and the only part of the tape that I looked at.

Senator SARBANES. Did Podesta's call reflect that he had a copy of the transcript?

Ms. HANSON. I didn't talk with Mr. Podesta. I didn't know that he had a copy of the transcript, sir. If I did, I would have asked him for a copy.

Senator SARBANES. When did you become the General Counsel of the Treasury?

Ms. HANSON. I was sworn in June 1, 1993.

Senator SARBANES. I gather, earlier in the day, you had testified that you didn't know either Mr. Altman or Secretary Bentsen. Is that correct?

Ms. HANSON. That's correct.

Senator SARBANES. How was it you came to be—how did it develop that you became the General Counsel of the Treasury?

Ms. HANSON. I was recommended by Robert Muntime, who had been the General Counsel of the Treasury during President Carter's Administration.

Senator SARBANES. Then what happened, you were interviewed by—

Ms. HANSON. I was interviewed by Mr. Altman and, subsequently, by Secretary Bentsen.

Senator SARBANES. Were you, at any point in your own mind, acting as General Counsel to the RTC?

Ms. HANSON. No, never.

Senator SARBANES. What was your thinking when you were counseling Altman in Altman's role as the CEO of the RTC? Were you, in fact, counseling him in that role?

Ms. HANSON. I was involved, from time to time, in matters that he asked me to be involved in, yes, sir.

Senator SARBANES. In what capacity were you doing that?

Ms. HANSON. I understood that I was always acting in my capacity as the General Counsel of the Treasury, that was—

Senator SARBANES. In what capacity was Altman acting when he was involved in those matters?

Ms. HANSON. He was acting, I believe, in his capacity as the Interim CEO of the RTC.

Senator SARBANES. How, then, could you have been counseling Altman as General Counsel to the Treasury, when he was acting in his capacity as the Interim Head of the RTC?

Ms. HANSON. He had the authority, statutory authority, to call on the services of Executive Department personnel and other Executive Branch personnel. He called upon my services, and I gave them. There was a need, and I supplied it.

Senator SARBANES. Let me go to this conversation with Nussbaum. There's a newspaper story today, and we have, in our file, a questions and answers which you apparently prepared to put yourself through the drill, as I understand it. Let me just read them. This is in reference to the conversation with Nussbaum:

*Question:* Who in Treasury or the RTC knew that you had this conversation?

*Answer:* I don't recall that I told anyone of the conversation.

*Question:* Did you tell Mr. Altman?

*Answer:* No.

*Question:* Did anyone ask you to have this conversation?

*Answer:* No.

What are we to make of this practice questions and answers which I've just read to you and which, I understand, were found—came from your files?

Ms. HANSON. Those questions and answers I prepared for myself in the middle of the night on March 1–2, 1994, as my initial attempt to try to recall the events that had occurred last fall. This was following the call that John Podesta made to Roger Altman, and our locating Senator Bond's questions and transcribing them from the tape. I had not thought about those events for a very long time. It was my first attempt to try to refresh my own recollection. They were prepared for my own use for that purpose of trying to begin the process of refreshing my recollection as to what happened. Over the course of the next several days, as I continued to think about the events that occurred last fall, it became clear to me and I did—that I did have a recollection of speaking with Mr. Altman on this matter. I did not have a recollection of reporting back to him and, in fact, probably the reason that I didn't have the recollection is because there's a memo, I wrote him a memo, and that is the September 30, 1993, memo which was not discovered—it was discovered in my files, but not until we were searching the files to respond to the subpoena after March 4, 1994.

Senator SARBANES. Am I to understand that you wrote these questions and answers to, in effect, set out your version of what occurred, and these are all, on the basis of what we have before us, wrong? Is that correct, every one of these answers are wrong?

Ms. HANSON. Sir, as I stated, it was my initial attempt at trying to recall the events that had occurred last fall and my initial recollection, as stated in those questions, was wrong, which is why I am so understanding of Mr. Altman not remembering the conversation. But I do, clearly, have a recollection of having the discussion with Mr. Altman, and that came to me over the period of the days following the preparation of those questions and answers as I was searching my own recollection.

Senator SARBANES. But you recollected that you had the discussion with Mr. Nussbaum?

Ms. HANSON. Yes, I did.

Senator SARBANES. In fact, you've set out a question, "But didn't you expect him to tell others, in fact, didn't you expect that he would tell others in the White House?"

You answered: "I didn't expect him to do that. I expected that he would use the information to prepare himself for an inquiry." Then, you go on to say, "Who in Treasury or the RTC knew you had this conversation." "I don't recall that I told anyone of the conversation." "Did you tell Mr. Altman." "No." "Did anyone ask you to have this conversation." "No."

Now, you're telling us that Mr. Altman asked you to have this conversation. Is that correct?

Ms. HANSON. That's correct.

Senator SARBANES. Now, you're telling us that you then told Mr. Altman about it. Is that correct?

Ms. HANSON. That's correct. Those, as I stated, were prepared—I took a laptop computer home from the office. Those were prepared in the middle of the night on March 1–2, 1994, when I was first trying to start the process of refreshing my recollection as to the events that occurred last fall. Over the period of the next several days, as I continued to search my memory, recollections came back to me. In the process of preparing for testimony before the Grand Jury, and continuing to search my recollection, I continued to recall more details. That's not an unusual process.

Senator SARBANES. I understand that, but the point is not insignificant. Because your initial version, if I take what you said here, is that you talked to Mr. Nussbaum as it were, on your own volition, that you were an independent actor bringing to Mr. Nussbaum's attention the information which you had learned from the RTC. Would that be a correct reading if I accept these questions and answers?

Ms. HANSON. That was my initial recollection, and it was not right, sir.

Senator SARBANES. How could you go astray on such an important point as to whether, in talking to Mr. Nussbaum, you were an independent actor proceeding on your own volition, as these questions and answers would suggest, or, as your questions and answers now suggest, that you were acting at Mr. Altman's behest and direction?

Ms. HANSON. Sir, I have a clear recollection of having had a conversation about this matter with Mr. Altman. I would not have gone to see Mr. Nussbaum without the authorization and direction of Mr. Altman. I did not have that kind of relationship with Mr. Nussbaum. My contacts with him were extremely limited.

Senator SARBANES. I understand that. Then why—

Ms. HANSON. In addition, the memorandum of September 30, 1993, that was subsequently located, confirms that Mr. Altman was aware of my conversations with Mr. Nussbaum and specifically states that I had spoken with Mr. Nussbaum and Mr. Sloan.

Senator SARBANES. Mr. Chairman, I'm trespassing on people's time. If I could just ask—

The CHAIRMAN. Yes. Just one more, but I am going to try to keep this more in bounds. Why don't you go ahead and do that.

Senator SARBANES. As I understand it, at some point you said that going to talk to Mr. Nussbaum is not something I would do of my own volition. Is that correct, you testified to that effect?

Ms. HANSON. I have just stated that I——

Senator SARBANES. You've said it now and you've said it elsewhere, too, I think in your deposition.

Ms. HANSON. I don't recall that, sir.

Senator SARBANES. But your view, now, is that this is not something you would have done of your own accord?

Ms. HANSON. That's my view.

Senator SARBANES. Then, how did you set out a set of questions and answers which would suggest that you did do it of your own accord?

Ms. HANSON. As I stated——

Senator SARBANES. Leaving aside this recollection problem, obviously, this set of answers, in effect, makes the point that you went on your own. You're now telling us you certainly would never go on your own, because that's not something you would do. How, then, did you set out a set of questions and answers whose essential premise is that you acted on your own?

Ms. HANSON. As I stated, that was my initial attempt to start refreshing my recollection. I have also stated that I accept full responsibility for making the decision—for talking with Mr. Nussbaum. I wouldn't hide behind an authorization from Mr. Altman as a shield for doing that. But I do, sir, have a clear recollection of having spoken with him. That came to me within the days after I prepared those questions and answers as I was searching for an understanding and a recollection of what the events in the fall, actually, had been.

Senator SARBANES. My time's up. Thank you.

Senator DOMENICI. Mr. Chairman, just a point of inquiry, how long do you intend to go tonight?

The CHAIRMAN. I'd like to finish with this witness, if we can. It will depend, partly, on how many more Senators want to have a question period. I don't have a clear indication of that yet, but I'd like to try to finish with this witness tonight so we can start with a fresh panel tomorrow morning. We have Treasury witnesses scheduled, so I think we should try to do this if we possibly can. If the Members want to give me an indication, one by one, as to how much time they need—I think we've covered a good bit of ground and I don't want to foreclose any Senator, nor will I. I'll stay as long as it takes, and if the witness needs additional periods to have a break, we'll do that as well. We've got to get this work done because we've got other witnesses we've got to hear from.

Senator SASSER. Mr. Chairman, may I inquire, have all Senators had one round of questioning now?

The CHAIRMAN. We've had the equivalent of that, although on the Republican side——

Senator MURRAY. Mr. Chairman, we have not had an opportunity.

The CHAIRMAN. I beg your pardon. Let me stand corrected. Let me give the whole answer here. On the Republican side, some of the time has been yielded to one Member, several times over in the rotation, as opposed to going down and getting every Senator. Not

every Senator on this side has been called upon, although I've tried to call on each one that I've understood to be wanting to be called upon. In fact, it would help me, now, to know what Senators, on both sides, would like to be called upon and, then, I will do so in the order in which we're proceeding. Senator Bryan, Senator Murray, and Senator Moseley-Braun wish to be called upon. At this point, Senator Boxer—

Senator BOXER. I already had my round, but I'll wait—

The CHAIRMAN. Senator Boxer has had one round—the voting period—

Senator BOXER. But I'll wait for the end, because I have more questions.

The CHAIRMAN. On this side, Senator Gramm, Senator Bennett, Senator Roth, Senator Domenici, Senator Hatch, and Senator D'Amato wish to be called upon. That's why we have ordered in the pizzas tonight, Senator D'Amato's birthday is today.

Senator SHELBY. Mr. Chairman, when are they coming?

The CHAIRMAN. Not soon enough.

In any event, who's next in the order now rotating across to this side, after Senator Sarbanes.

Senator D'AMATO. I believe Senator Domenici is next. I yield to Senator Domenici.

The CHAIRMAN. Senator Domenici will go next on this side.

Senator DOMENICI. How many times have you had an opportunity to correct the record when a witness that you represent, as legal counsel, has, in your opinion, failed to tell the whole truth?

Ms. HANSON. To my recollection, this is the first time that I have been in a position, like this one, where there was a transcript that was going to be provided for me to review. I have reviewed other testimony, but I had not been in this particular position before.

Senator DOMENICI. Are you of the impression, the way we do business in the U.S. Senate is that, a witness can come before the Committee, tell half truths or one-quarter of the truth and, then, that gives him the right to take as long as he'd like to look through the transcript and correct it? Even if it's something as specific as, "Did you have only one meeting?" and the answer is, "Yes," but it turns out that there are at least three and maybe more? Is it your understanding that's the way the Senate does business? That you have that right and Mr. Altman has that right?

Ms. HANSON. It's my understanding—certainly, it's my understanding that the requirement is to testify truthfully. It's also my understanding that it is necessary, and what a careful lawyer does, to review the transcript and to correct it, if necessary, and supplement it. Sir, that was what I intended to do here. That was all I intended to do.

Senator DOMENICI. I understand.

Mr. Chairman, I might just state my own observation.

The CHAIRMAN. Please.

Senator DOMENICI. I really don't understand that to be the premise upon which we operate in terms of our records, that witnesses can come and tell us a quarter of what's truthful or a half of what's truthful and then go see their legal counsel and say, "Let me correct it," and then correct it once, correct it twice, correct it three times. I think it's very unordinary that this matter was han-

dled like this and, frankly, I just call upon Senators who have been here to recollect whether they think this is the way we do business. I mean, the fact of the matter is, Mr. Altman did not tell this Committee the truth. Or, let's put it another way, the whole truth. Then, you sought, as you claim, in due course, to fix that record, as I understand it.

Ms. HANSON. Sir, that's not what I—what I've said. I think Mr. Altman and—and Mr. Altman will appear before this Committee and you can ask Mr. Altman questions about his testimony. What I have testified is that, I intended to review all the questions and answers to make sure that they were fully and completely answered, and I did not have an opportunity to do that. You're right, this was an unusual process, because a Grand Jury subpoena was delivered to me on March 4, 1994, which terminated my ability to participate in this process.

Senator DOMENICI. Do you have any information as to why, on March 1, 1994, at the White House, there was a meeting of one, two, three, four, five, six, seven people, about correcting this record, and you were not there?

Ms. HANSON. I haven't any idea.

Senator DOMENICI. I have an understanding that on March 1, 1994, Messrs. Podesta, Lindsey, Nussbaum, Klein, Sloan, Eggleston, and Meyers had a 2½ hour meeting. There had been negative press about Mr. Altman's staying at the RTC, and there was concern about Mr. Altman's inaccurate testimony. It goes on to say that, Mr. Podesta was to call Mr. Altman and tell him of the three errors and to correct them, but when Mr. Podesta called Mr. Altman, Mr. Altman did not want Mr. Podesta to give him facts that he didn't already have about the criminal referral. Do you have any information about that?

Ms. HANSON. I have no information about that. I understand—I have understood, now, in the course of this process, that the White House did have a copy of the transcript, but, as I say, I didn't have a copy.

Senator DOMENICI. When you went to the meeting at the White House on February 2, 1994, the big meeting, did it bother you at all that nobody was there representing the RTC, other than Mr. Altman wearing his two hats; that there was no counsel from the RTC, nobody other than you, as Treasury's Legal Counsel, and him? Did it bother you at all that the meeting was taking place at the White House, with about seven personnel of the White House, and the RTC wasn't present?

Ms. HANSON. No, sir. In fact, I thought it was appropriate that the RTC General Counsel was not in attendance at that meeting, because she was supervising the ongoing civil investigation and had substantive knowledge in terms of what was being done in the investigation. The only purpose of the discussion in the White House was statute of limitations, procedural issues, and Mr. Altman's recusal. I had counseled him on the recusal and on the statute of limitations discussions. It was a briefing on the law as applied to the Madison matter, a pure application of law to facts, and I was fully able to do that.

Senator DOMENICI. Was there not a discussion, at that meeting, about whether or not the RTC had sufficient facts, and had inves-

tigated the case thoroughly enough, to file by the statute of limitations date of February 28, 1994?

Ms. HANSON. No, I previously testified that one of the talking points said that it was not clear when the investigation would be completed, but it would be completed by February 28, 1994, which was information that had been given to Congress the prior day.

Senator DOMENICI. So, if Mr. Ickes recalls that, at that meeting, it was discussed in a contrary manner—that, in fact, Mr. Altman gave him information, in his opinion, that says the case won't be ready—then, Mr. Ickes is wrong?

Ms. HANSON. Mr. Ickes is mistaken. It didn't happen—that discussion didn't happen in my presence.

Senator DOMENICI. All right. Did you have any conversations regarding the entire issue of Mr. Altman's recusal, and the related matters that were discussed on February 2, 1994, with any other members of the White House staff who were not in attendance at that meeting?

Ms. HANSON. Not to my recollection, no.

Senator DOMENICI. Did you get any calls from any other White House people, who were not present at that meeting, about that?

Ms. HANSON. Not about the—the subject of the meeting?

Senator DOMENICI. Yes.

Ms. HANSON. No.

Senator DOMENICI. The people there were Mr. Nussbaum, Mr. McLarty, Mr. Ickes, Maggie Williams, and Neal Eggleston. Did you receive any calls from any other White House personnel?

Senator DODD. I don't think Mr. McLarty was there. It was in his office, you testified, but he was not present. Is that correct?

Ms. HANSON. That's correct.

Senator DOMENICI. Nobody else from the White House has called you about the subject matter of that meeting? Has anybody else been in contact with you?

Ms. HANSON. As I testified, Neal Eggleston called me just before the hearing on the proposed answer to a question regarding the meeting, but other than that, no, sir.

Senator DOMENICI. Just one last time, as you sat behind the table there, while Mr. Altman was testifying—and Secretary Bentsen was there, I recall it rather vividly—are you actually telling us today, that you did not clearly understand, right then and there, that he was not telling us all of the facts?

Ms. HANSON. As I stated, sir, I realized that he had not mentioned recusal. I did not know why he had done that.

Senator DOMENICI. And you didn't choose to do anything about that until later on?

Ms. HANSON. That's correct. I didn't think there was anything I could do about it, at that point, given the way he had testified.

Senator DOMENICI. Thank you, Mr. Chairman.

The CHAIRMAN. I think, in fairness to the witness, on this—and she can speak for herself, I'm not trying to speak for her—but she did say earlier, and it was confirmed in your deposition, that you felt, beyond a certain point, he had made such a declarative and definitive answer, if you will, that the moment had passed where you thought you could intervene and, in a sense, broaden out the answer. Is that correct?

Ms. HANSON. That's correct, sir.

The CHAIRMAN. I'm going to yield to Senator Bryan. Before I do, I just want to ask you if you think you've got the staying power tonight, to finish up this evening. I know this is a difficult exercise for you, and there are a lot of us and only one of you. I think it would be well if we could finish tonight, as opposed to carry over until tomorrow—

Ms. HANSON. That's fine.

The CHAIRMAN. —but I don't want to do that if that—if you don't feel you want to stick it out here tonight. I don't know what your own energy level is in terms of responding. I'd like a little guidance from you. I'd like to finish, but I don't want to do that if it's beyond what you think your strength is here tonight.

Ms. HANSON. I'm prepared to continue, sir.

The CHAIRMAN. Very good. Thank you.

Senator Bryan.

Senator BRYAN. Thank you very much, Mr. Chairman.

There are a number of things I find to be quite troubling here. I'm very disturbed at the way in which Mr. Altman was handled, both your conduct, with respect to it, and his. Tomorrow, we'll have a chance to ask him some questions.

The CHAIRMAN. Senator Bryan, I'm having a hard time hearing you. I'm wondering if you could get closer to that mike? Maybe we could turn it up a bit.

Senator BRYAN. Mr. Chairman, is this a little better?

The CHAIRMAN. Yes, it is. Thank you.

Senator BRYAN. What I just said is that, I find a number of things troublesome and particularly disturbing to me in the way in which the Altman testimony was handled, both Mr. Altman's conduct and your conduct. I don't find your explanation persuasive, but I don't want to dwell on that. I think a number of others have made that point as well.

I'm also bothered with the contacts with the Administration. It may very well be, as you suggest, that an ethical standard was not breached, but there is an appearance of impropriety and I don't believe there was the sensitivity that there ought to have been with respect to that issue. What I want to talk to you a little bit about, now, and get the benefit of your thinking, is an area that I've explored with several other witnesses and that is the relationship of the RTC to the Treasury. Those of us who were here in 1989, when we worked on the FIRREA legislation, certainly had the impression, I think it's fair to say, that we were creating an independent relationship between the RTC and the Treasury. Perhaps, as you've indicated on page 2 of your testimony today, it was not as independent as, say, the SEC, because there was no fixed term. I think that is correct, but yet, clearly, there was an independent relationship contemplated. You, obviously, take a different point of view.

Let me just say that, in this morning's testimony, a number of the witnesses who were questioned were concerned about the absence of that independent relationship they thought was important. Mr. Roelle commented, during the course of his testimony, that the RTC did not operate independently of the Treasury, "Everything we do is cleared by the Treasury." Mr. Katsanos was very concerned about the relationship. He felt that, inherently, and I'm



paraphrasing, the two hats that Mr. Altman wore made it a very difficult relationship, and even Mr. Ryan commented that he felt the lines of authority were blurred. The line of questioning that I'd like to pursue with you is what the nature of the RTC is. Is it simply a bureau, as one witness commented in disagreeing with that perception, is it just a bureau within the Department of Treasury, or is it just an entity within the Department? Give me the benefit of your thinking, of how you understand and how you perceive this relationship.

Ms. HANSON. I understand, as I testified, that the RTC is a corporation, that it is overseen by an oversight board of which the Secretary of the Treasury is the Chairman, and that the statute that you referred to established authority of the RTC and the oversight board and gave the RTC the authority to deal with case-specific and day-to-day operations, among other things, separate and independent from the oversight board. That is, the oversight board is not to interfere with case-specific matters or day-to-day operations. Typically, had it not been for the fact that Mr. Altman had—was also appointed as the Interim CEO under the Vacancy Act, there would have been involvement of staff of the Treasury Department. That has, historically, been the case, giving staff support to the Secretary in his capacity as Chairman of the oversight board, but there would have been much less involvement than there had been this last year.

The difficulty, sir, and this was a difficult time—I already had a full-time job. I didn't need more work to do. On the other hand, Mr. Altman also had—Mr. Altman had two full-time jobs and he called upon a certain number of people in the Treasury to assist him in carrying out his functions simply because it was physically impossible for him to do it all. As I stated, he had statutory authority, as the Interim CEO, to call upon other Executive Branch personnel, and he also had statutory authority, as the Deputy Secretary, to grant that assistance. It was a difficult situation, I will tell you, sir.

Senator BRYAN. I acknowledge that. I think Mr. Altman had a very difficult situation.

Ms. HANSON. In fact, one of the happiest days of my life was when Ellen Kulka, who I hold in extremely high regard, joined the RTC as the General Counsel. I would say, if I understood Mr. Roelle correctly as he testified this morning, the case-specific issues were handled at the RTC, the Treasury people were involved in policy issues, and the oversight board does have statutory authority to be involved in policy matters. There was a real attempt made, at the Treasury, to make sure that Treasury staff were only involved to the point of either assisting Mr. Altman in carrying out his decisions, or advising him, in his capacity as Interim CEO, on policy issues, and to not interfere with the day-to-day issues or the case-specific matters at the RTC.

Senator BRYAN. My view was that Mr. Altman, who had a difficult situation wearing two hats, really, had two hemispheres of authority and responsibility. One, was as Deputy Secretary and, as you indicate, that, in and of itself, would be a full-time job and, during some interim period of time, he was also the Acting Head of the RTC.

What I find interesting is that, there does not seem to be, at least in your thought process, any distinction, am I being asked in my capacity as General Counsel to the Treasury, which is clearly your responsibility, or is Mr. Altman framing a question that more appropriately is with respect to his responsibility as the RTC Head. Did you ever, for example, in conversing with Mr. Altman—not specifically in the context of this case—but did you ever say to him, “Mr. Altman, really, that is a RTC responsibility. I think it would be more appropriate if you talked with Ms. Kulka, because she is your General Counsel”——

Ms. HANSON. Absolutely.

Senator BRYAN. So you did make that statement?

Ms. HANSON. Absolutely. When Ms. Kulka came on board, every decision, every discussion, should have been between Mr. Altman and Ellen Kulka. The problem, sir, was that Mr. Altman had a limited number of hours in his day, just like we all do, and he physically was unable to interface with all of the people that he needed to. What tended to happen, and as some of my testimony indicates, people were called, Treasury people, to get information to Mr. Altman and Mr. Altman would talk with Treasury people to give information to the RTC. It was a difficult situation and, frankly, nobody was very happy about it, but it was work that needed to be done and we did it.

Senator BRYAN. Perhaps it's a hybrid that we need to revisit.

I note that my time is up. Let me just—I've been critical in some of my observations, but I think we need to put this in some perspective as well. As I see the record, as I read it, and as I hear the testimony, I think, although a number of errors in judgment were made, in the final analysis the record is clear that neither the President, nor anybody in this Administration, did, in fact, interfere with the RTC insofar as its referral process or any investigative aspect relating to Whitewater. I think that that is important for me to say as well as being critical. I yield back to the Chair.

The CHAIRMAN. Thank you, Senator Bryan.

Again, yielding on the Republican side, I'm following the instruction of Senator D'Amato as to where he wants their time block to go, and he wants it to be assigned to Senator Gramm.

Senator GRAMM. Ms. Hanson, this is the last time that we're going to get to hear from you, and I want to be sure we have all the relevant questions asked. I guess it is obvious, from everything we've heard, that the September 29, 1993, meeting was the first meeting that you ever had with the White House about this subject?

Ms. HANSON. That's correct.

Senator GRAMM. I think this is a very important point, did Mr. Altman tell you to have that meeting?

Ms. HANSON. Yes, sir.

Senator GRAMM. Did you ever hold a meeting with Mr. Nussbaum, or anybody that high at the White House, without specific instructions from Mr. Altman to have such a meeting?

Ms. HANSON. On a subject like this, sir, no.

Senator GRAMM. So it would have been totally out of the realm of possibility that you would have gone over to the White House to talk to the President's Counsel, about a subject like this, without

Mr. Altman having said to you, "Ms. Hanson, go over there and talk to the people at the White House"—as it turned out, there were a whole bunch of them there. There is no possibility that you would have ever done that without Mr. Altman's explicit, direct instructions?

Ms. HANSON. As I sit here, sir, I can't recall every conversation that I have ever had with anyone in the White House, but, certainly, on an issue like this one, I would not have done it without Mr. Altman's authorization.

Senator GRAMM. We know since—and you have seen it and you've forgotten writing it and, believe me, I forget lots of letters I sign every day, so I'm not trying to make a big point out of it, but we know that, on September 30, 1993, you sent Mr. Altman a memo in which you say that you have spoken to the Secretary, and that you've talked to Mr. Nussbaum and Mr. Sloan. So Mr. Altman told you to go. To the best of your knowledge, given that you looked at the memo, it had your signature on it, and it's the kind of memo you would have written regarding subjects that you would have written memos on, to the best of your knowledge, having seen this memo, your testimony is, that he not only told you to go, but that you gave him hard copy that you had gone?

Ms. HANSON. That's how I interpret that memo, yes, sir.

Senator GRAMM. At the meeting on October 14, 1993—this is the second fall meeting—did Roger Altman tell you to go to that meeting, or did you tell him you were going to that meeting?

Ms. HANSON. I don't recall discussing that meeting with Mr. Altman.

Senator GRAMM. Is it likely you would have gone to the White House for this meeting without telling him?

Ms. HANSON. I believe—it was my understanding, sir, that meeting was simply to discuss press inquiries that were being received at the Treasury. I was asked to go by Mr. Steiner, Mr. DeVore, or both of them, both senior Treasury officials, and I wouldn't necessarily have gotten—sought specific permission from Mr. Altman to do that.

Senator GRAMM. I guess I'm puzzled about your role in press releases—I mean, press leaks. You're the General Counsel. I know it's your job to be sure that people at the Treasury are complying with the law. How did you get this job, as a key input, on this press leak issue?

Ms. HANSON. As I say, I was asked—I was given this information unsolicited. I understand Mr. Altman asked Mr. Roelle to give this information to me. I gave the information to Mr. Altman. He asked me to speak with Mr. Nussbaum. Mr. Nussbaum, as I stated and as I understood, was the appropriate contact person in the White House, with respect to investigations, so he would have been the right person to talk to.

Senator GRAMM. Investigations or press leaks?

Ms. HANSON. This was a press leak that also related to an investigation.

Senator GRAMM. At the meeting of February 2, 1994, at which Mr. Altman was present, you talked about a lot of issues. Obviously, we know of the two that have been mentioned. At that meeting, to the best of your memory, did anyone ever casually, tangen-

tially, or in any way mention the meeting of September 29, 1993, or the meeting of October 14, 1993?

Ms. HANSON. On February 2, 1994?

Senator GRAMM. Yes.

Ms. HANSON. No, sir.

Senator GRAMM. A very relevant issue, it seems to me, is when Mr. Altman wrote to us on March 2, 1994. He said, "I have learned, today, of two conversations which did take place between Treasury staff and the White House." He says that in his March 2, 1994, letter. Now, you tell us that he told you to go to the White House for the September meeting. You have verified that this is your memo to him, after you came back, that it has your initials on it, and it's the kind of memo you would have written. So there were at least two contacts with Mr. Altman regarding the September meeting. One, he told you to go and, two, when you came back you gave him this memo. Did you ever talk to him about the meeting on September 29, 1993, or the meeting on October 14, 1993?

Ms. HANSON. At any time?

Senator GRAMM. Yes. At any time prior to his testimony?

Ms. HANSON. I don't recall ever having a conversation with him about the October 14, 1993, meeting one way or the other. I don't recall having a conversation with him about the September 29, 1993, meeting, although, as I've testified, my September 30, 1993, memorandum was located. At the time that the March 2, 1994, letter was written, the statement that he made was consistent with my recollection at the time. We've gone over these questions.

Senator GRAMM. Ms. Hanson, let me stop you right there, because this is a different issue. Mr. Altman writes, here in his letter, that he has just learned "today" of these two meetings. He just learned "today," that's what this says. You say that he sent you to the first of the two meetings, and we have a memo that you gave him telling him that you went and, basically, what happened.

You saw this letter, did you ever say to him, "Mr. Altman, you told me to go to the first meeting, and I sent you a memo on that meeting. How can you write a letter to this Committee of Congress, saying you just found out about it today?" Did you ever raise that issue with him?

Ms. HANSON. Sir, at the time that letter was written, that statement was consistent with my recollection. I have testified that it wasn't until after that letter that I—as I worked on the process of recalling what had happened last fall—that I recalled that I had a conversation with him about it and that he sent me. It wasn't until the search for the documents, in response to the Independent Counsel's subpoena, that the September 30, 1993, memo was located, and I have no recollection, independent recollection, as I sit here now, of having written it, although it is clear to me that I did. At the time Mr. Altman wrote that letter, it was consistent with my recollection of the matter and, I will tell you, that is a good example of why trying to deal with things piecemeal, rather than dealing with them in an orderly fashion, can be a problem.

Senator GRAMM. Ms. Hanson, you've already said to us that you would have never gone to this September 29, 1993, meeting save a direct order by Mr. Altman. How could you, then, think that he did not know about the meeting? I forget a lot of things, but I don't

forget there are some things, that are extraordinary enough, that I would not do unless somebody told me to do them. I wouldn't forget they had told me to do them.

Ms. HANSON. Sir, that letter was put together very quickly, late in the day, in response—and it dealt, only, with the responses to Senator Bond's questions. As I stated, we had several conference calls with Jack DeVore on March 2, 1994, trying to even remember why the October 14, 1993, meeting had taken place and who was there. We had just not thought about it for a very long time. I had not thought about it, seriously, for a very long time.

Senator GRAMM. Ms. Hanson—

Senator SASSER. Mr. Chairman, I hate to interrupt the Senator, but many of us are waiting to do our questioning and when we—

Senator GRAMM. I'll come back when it's our turn.

The CHAIRMAN. Senator Sasser makes a good point, and I appreciate your desisting. I would hope that, in the remainder of the evening, if we can, we're going to try to stick to the lights. It would be helpful if everybody would keep track of it, on both sides, so that I don't have to interrupt, because I prefer not to, but I will if we run much over.

Senator BOXER. Mr. Chairman, I hope you will stick to the lights and then we can all stay late, those of us who want to stay late. I'm willing to stay—

Senator GRAMM. If you'll just tap your gavel—what happens is you start looking at your notes and you're not looking at the lights.

The CHAIRMAN. I understand. It's happened on both sides. That's a fair way to do it.

Senator Moseley-Braun.

Senator MOSELEY-BRAUN. Thank you, Mr. Chairman.

I'm only chuckling, Mr. Chairman, for Senator Murray and myself. This is our first round, and you just went to the light system, for real, on our first round. And it's OK. It's all right. We understand. I just want to clarify, for the record, with Ms. Hanson.

Ms. Hanson, as General Counsel for the Department of Treasury, you did not have any direct role with regard to the RTC. Is that correct?

Ms. HANSON. That's correct.

Senator MOSELEY-BRAUN. So, with regard to the seven conversations and all of these involvements that you have regarding RTC matters, there was a clear blurring of the lines of responsibility?

Ms. HANSON. As I've stated, Mr. Altman had the statutory authority to utilize Treasury personnel and had the statutory authority, as the RTC CEO, to use that personnel. I, from my perspective, always considered myself to be acting in my capacity as General Counsel to the Treasury. That's the only capacity that I had.

Senator MOSELEY-BRAUN. That is correct, but under the law, section 1441-A, when a member borrows an employee from another agency, it suggests that that is a—that's a specific act. In fact, it provides for reimbursement, as I recollect, of those borrowed appointees. In that regard, had you had a conversation with Mr. Altman that he was borrowing you from Treasury for purposes of your work on RTC-related matters?

Ms. HANSON. No one considered it in those terms. The difficulty was that there were—it is difficult to parse all the various activi-

ties that people were involved in. As I stated, I was not involved in case-specific matters, I was not involved in day-to-day operations. I was involved in specific things that Mr. Altman asked me to do. As Mr. Roelle stated earlier today, in fact—if I may just finish, Senator—as Mr. Roelle stated earlier today, the Treasury people were involved in policy issues. Policy issues are within the province of the oversight board. The oversight board has the authority to utilize personnel, whether on a reimbursable or other basis. So, from my perspective, as I thought about it, the amount of time that I felt that I was actually spending in other than policy matters was small.

Senator MOSELEY-BRAUN. But, Ms. Hanson, and recognizing, again, there are procedures for the oversight board to borrow employees, there are procedures for the RTC to borrow employees, but, in the absence of a conversation with Mr. Altman regarding borrowing your services with regard to RTC matters, didn't you think it a little unusual that Mr. Roelle would call you about a criminal referral for the RTC?

Ms. HANSON. No, I didn't think it was unusual. Mr. Altman had asked him to call me. As I stated, there were a limited number of Treasury people who assisted in this. This was known—many of the responsibilities I was given were approved, directly or indirectly, by Secretary Bentsen. So no, I didn't.

Senator MOSELEY-BRAUN. Are you suggesting that Secretary Bentsen approved your activities with regard to the RTC?

Ms. HANSON. In some of them—in terms of some of the policy areas that I was involved in, they were approved, directly or indirectly, by—

Senator MOSELEY-BRAUN. But with regard to—

Ms. HANSON. Secretary Bentsen was aware of what I was doing.

Senator MOSELEY-BRAUN. But, with regard to case-specific activities for the RTC, you had the explicit or the assumed approval, first, of Mr. Altman and, then, of the Secretary? I would like your answer to the question, did you have—

Ms. HANSON. Let me back up to say I had very limited involvement in anything that was case-specific, and I think that is consistent with what Mr. Roelle said this morning.

Senator MOSELEY-BRAUN. You use the word "parsing." Did it occur to you, in your role as General Counsel for the Treasury, that there might be an ethical problem with the blurring of these lines?

Ms. HANSON. No, Senator, it didn't.

Senator MOSELEY-BRAUN. Second, with regard to your participation in the meetings, when you attended the meetings, in what capacity did you attend those meetings, in what capacity did you think you were attending those meetings?

Ms. HANSON. I attended them in my capacity as General Counsel to the Treasury.

Senator MOSELEY-BRAUN. Did you think that it was appropriate to discuss specific case issues before the RTC wearing your General Counsel of the Treasury hat?

Ms. HANSON. The only conversations that I had, that were at all case-specific, were—the only conversation was my conversation with Mr. Nussbaum, which was authorized by Mr. Altman and related to press leaks that Mr. Nussbaum was going to have to deal

with. It was a legitimate governmental purpose, and the Office of Government Ethics, who has looked at this, has said that it was a legitimate governmental purpose as long as I wasn't trying—as long as I wasn't advancing a private interest, which I wasn't. They found no evidence, nothing to conclude that there was even—there was anything that would advance a private interest. Consequently, there wasn't a problem doing that.

Senator MOSELEY-BRAUN. But the information that was discussed at that meeting was nonpublic information. Is that correct?

Ms. HANSON. It was nonpublic—to my knowledge, my specific knowledge at that time, it was. However, it was—it either had leaked to the press—to the public, or was imminently going to leak.

Senator MOSELEY-BRAUN. But imminent became a month later, the first reports of this referral didn't come until a month later?

Ms. HANSON. As I stated earlier, the chronology that was prepared by the Inspectors General, that just became public yesterday, says their first entry is September 23, 1993, that says that, Mr. Dudine, who is the Director of the Office of Investigations—and he refers to a reporter who is getting close to something about the criminal referrals. That was a week before my conversation.

Senator MOSELEY-BRAUN. Again, to ask the question, did you have any concern at all, or did you discuss with Mr. Nussbaum or with Mr. Altman any concerns, about the propriety of your participating in meetings regarding this nonpublic information given your role as Treasury Counsel?

Ms. HANSON. The fact that I was a Treasury Counsel?

Senator MOSELEY-BRAUN. Did you have any discussions with anyone regarding the propriety of your playing this role—I mean, you weren't RTC Counsel, but you were playing a role that was—

Ms. HANSON. I was asked by Mr. Altman to play this role. He is my superior.

Senator MOSELEY-BRAUN. OK, but you didn't have—

Ms. HANSON. I believed then, and I believe now, that it was the appropriate thing to do.

Senator MOSELEY-BRAUN. Can you just—but did you have any concern, or did you have any discussion with anyone around—concerning the propriety—

Ms. HANSON. No, I didn't.

Senator MOSELEY-BRAUN. —of what you were doing? OK.

The CHAIRMAN. I think, you know, she's—

Senator MOSELEY-BRAUN. She did now.

The CHAIRMAN. I think she's made it clear that she doesn't—she's on the other side of that point, and makes it very clear.

Senator Hatch.

Senator HATCH. Thank you, Mr. Chairman.

Ms. Hanson, here I am. Let me turn to the February 2, 1994, meeting at the White House in which Roger Altman informed White House officials that he was recusing himself from the RTC's decision to pursue a civil action in Madison Guaranty. It's correct, isn't it, that Bernie—Bernie Nussbaum, who was then the White House Counsel, was very concerned over who at the RTC would be making the decisions in the Madison Guaranty matter if Roger Altman recused himself?

Ms. HANSON. He did ask. He did ask, yes.

Senator HATCH. So, he was concerned. It's also correct, isn't it, that Mr. Nussbaum was particularly concerned that Ms. Kulka, the new General Counsel at RTC, would be making the decision on whether to pursue a civil action? Is that a fair characterization?

Ms. HANSON. He said that she was tough.

Senator HATCH. Mr. Nussbaum didn't express any concerns about Ms. Kulka's professional skills, did he?

Ms. HANSON. No.

Senator HATCH. He didn't express any concerns about her integrity?

Ms. HANSON. No.

Senator HATCH. Instead, Mr. Nussbaum's was concern that Ms. Kulka was a tough lawyer. Right?

Ms. HANSON. That's what he said.

Senator HATCH. He didn't view her as a patsy, in other words.

Ms. HANSON. That's right.

Senator HATCH. He said his judgment was based on her work as a Government lawyer when he was in private practice. Isn't that correct?

Ms. HANSON. That's what I understood, yes.

Senator HATCH. So it's fair to say Mr. Nussbaum's objection to Ms. Kulka was that she was tough in representing the interests of the Government and the American people against private persons who engaged in alleged wrongdoing that cost the American taxpayers lots of money.

Ms. HANSON. I understood that he had worked with her when she was with the Office of Thrift Supervision, yes.

Senator HATCH. Mr. Nussbaum, at that time, raised his voice and became somewhat emotional. Isn't that true?

Ms. HANSON. Mr. Nussbaum did raise his voice, at the beginning, but he's an animated person.

Senator HATCH. While he was raising the objections about Ms. Kulka, that's when he raised his voice?

Ms. HANSON. When he was asking questions about Ms. Kulka, yes.

Senator HATCH. At the end of this meeting on February 2, 1994, Mr. Nussbaum pulled you aside and asked you who made this decision to hire Ms. Kulka as General Counsel of the RTC. Right?

Ms. HANSON. That's correct.

Senator HATCH. He told you that he should be consulted in the hiring decision. Wasn't that right?

Ms. HANSON. That's right.

Senator HATCH. He felt that the decision, on who was to be RTC General Counsel, was one that he should have made, or at least had some part in.

Ms. HANSON. That's not what I understood. But that he was—I understood that he was to have been consulted.

Senator HATCH. It was part of his White House turf is the way I would interpret that.

Ms. HANSON. I don't know how to interpret it.

Senator HATCH. That's fine. It's true, isn't it, Mr. Nussbaum called you again the following day, on February 3, 1994, and asked you how Ms. Kulka had been hired, asked you again.

Ms. HANSON. That's correct.



Senator HATCH. The very next day, February 4, 1994, Mr. Nussbaum again telephoned you regarding the scope of the charter of Special Counsel Fiske in the Madison Guaranty/Whitewater matter.

Ms. HANSON. Yes, he called me to say that it was available, to make sure that I knew it was available.

Senator HATCH. Incidentally, it hadn't been the typical case that he called you daily before then, had it?

Ms. HANSON. No, sir.

Senator HATCH. But he was calling you daily, at that time, as we've discussed.

Ms. HANSON. Right, during the limited period we are discussing, that is, February 3 and 4, 1994.

Senator HATCH. In this telephone call about the charter of the Special Counsel, Mr. Nussbaum pointed out to you that the charter could be read to give the Special Counsel authority to pursue civil actions in Madison Guaranty. Isn't that so?

Ms. HANSON. That's correct.

Senator HATCH. Mr. Nussbaum suggested to you that Mr. Altman might want to take this into account in determining how to proceed with the RTC investigation?

Ms. HANSON. That's correct.

Senator HATCH. You understood, from this series of contacts with Mr. Nussbaum, that Mr. Nussbaum thought it preferable to have Mr. Fiske, rather than Ms. Kulka, have jurisdiction over the decision whether or not to pursue a civil action on behalf of the RTC against the persons affiliated with Madison Guaranty?

Ms. HANSON. He didn't state a preference, sir. He brought it to my attention and suggested that it be brought to Mr. Altman's attention.

Senator HATCH. But, again, at that time, Mr. Nussbaum expressed his concern to you that Ms. Kulka was tough.

Ms. HANSON. That was in the meeting on February 2, 1994.

Senator HATCH. It's true, isn't it, that you passed on to Mr. Altman Mr. Nussbaum's suggestion that the Special Counsel should be, or could be, given jurisdiction over the RTC civil claims?

Ms. HANSON. There was a question as to whether the Independent Counsel's charter covered the RTC—

Senator HATCH. Right, but you passed that on to Mr. Altman?

Ms. HANSON. Yes, I did.

Senator HATCH. As of February 4, 1994, Mr. Nussbaum and Mr. Altman understood that the statute of limitations on RTC civil actions would expire on February 28, 1994. Right?

Ms. HANSON. That's right.

Senator HATCH. You called Ms. Kulka the next morning?

Ms. HANSON. I did.

Senator HATCH. That was Saturday, February 5, 1994?

Ms. HANSON. That's right.

Senator HATCH. You telephoned Ms. Kulka at home. Right?

Ms. HANSON. That's correct.

Senator HATCH. You told her that Mr. Nussbaum had proposed that Mr. Fiske might take over the RTC civil action, didn't you?

Ms. HANSON. What I recall, of that conversation, was that there was a question as to what the Independent Counsel's charter

meant and what the terms—because it said—as I recall it, and I don't have it in front of me—criminal or civil cases, and there was a question as to what the “or civil” referred to—

Senator HATCH. But Nussbaum had said that Fiske could take over the civil action.

Ms. HANSON. No, that's not my recollection. He just brought it to—my recollection is that he just brought it to my attention.

Senator HATCH. Isn't it true that Ms. Kulka reminded you that you and she had already spoken to Mr. Fiske on a prior occasion?

Ms. HANSON. I had never spoken with Mr. Fiske, sir. She had spoken with Mr. Fiske.

Senator HATCH. I see. You and Ms. Kulka, or at least Ms. Kulka, discussed with him the scope of the investigation. Is that correct?

Ms. HANSON. I don't know, exactly, what Ms. Kulka discussed with Mr. Fiske.

Senator HATCH. In your February 5, 1994, phone call—let me just read from page 421, Counselor. In your answer, you said, “Ms. Kulka had, and I had, spoken with Mr. Fiske on a prior occasion, Mr. Fiske, the Independent Counsel. And she said it was her impression, from speaking with Mr. Fiske, that he was not interested in taking jurisdiction over the RTC civil investigation.”

Ms. HANSON. Is that from my—

Senator HATCH. That's from your—

Ms. HANSON. I haven't had an opportunity to review it, but I think, if you read that through again, it's clear that the “and/or I” is not right, because that's a conversation that she had, that she's telling me about.

Senator HATCH. Fine. In your February 5, 1994, phone call, I believe Ms. Kulka told you, it was her impression, that Mr. Fiske would not be interested in pursuing the civil claims.

Ms. HANSON. Yes.

Senator HATCH. You telephoned Mr. Nussbaum on February 8, 1994. Is that right?

Ms. HANSON. On an unrelated matter, and thanked him for having brought the charter to my attention.

Senator HATCH. At the time you called him, you were of the view that the RTC civil case would not be handed over to Mr. Fiske. Isn't that correct?

Ms. HANSON. I don't recall that I discussed it with him in that telephone call. It was my understanding, from speaking with Ms. Kulka, that Mr. Fiske had indicated to her that he—a disinclination to take the RTC civil investigation, even if his jurisdiction was sufficiently broad to cover it.

Senator HATCH. But you conveyed your viewpoint to Mr. Nussbaum?

Ms. HANSON. I don't recall that I did.

Senator HATCH. Am I out of—

The CHAIRMAN. We're going to try to stick to the lights here. I don't want to foreclose. Do you have a follow-up question just to this?

Senator HATCH. I have a number of them that would be follow-up.

Senator D'AMATO. I'll yield to you later.

The CHAIRMAN. Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

Ms. Hanson, earlier today, Stephen Katsanos, who's the Communications Director of the RTC, suggested that you had sent the September 30, 1993, Early Bird, and a cover memo, to the White House. I have that memo here, and it's directed to Mr. Altman. Did you also send it to the White House?

Ms. HANSON. No, I did not. I did send an Early Bird to the White House at some point. I don't recall which one it was, but I, certainly, didn't send the memo to the White House.

Senator MURRAY. You did not send this memo to the White House?

Ms. HANSON. No, I did not.

Senator MURRAY. Do you know why Mr. Katsanos said that you did?

Ms. HANSON. I don't know. He may be mistaken. He must have been mistaken, because I know I did not.

Senator MURRAY. Ms. Hanson, did you ever brief congressional staff on Madison, Senate staff?

Ms. HANSON. No. I spoke with Senator Riegle, and his staff, on February 10, 1994, I believe. We were talking about a possible permanent CEO, and we had a conversation about the statute of limitations operation. And, I recall, we also talked briefly about whether—about Mr. Altman and the fact that he was—felt he could be impartial and was going to stay and—

Senator MURRAY. In that briefing, did you use the same talking points that Roger Altman used in his February 2, 1994, meeting?

Ms. HANSON. No, I did not.

Senator MURRAY. Finally, Mr. Chairman, I really agree with—

Ms. HANSON. No—if I could just clarify. I used—they were not the, identical, talking points that I used in—that Mr. Altman used in the February 2, 1994, meeting. They were, however, almost identical. They had—because they had been modified, for my use, to just talk about the statute of limitations issue, so yes, they were almost identical.

Senator MURRAY. Would it be correct to say that information provided at the February 2, 1994, meeting was being shared elsewhere, specifically, in Congress or congressional briefings?

Ms. HANSON. It's my understanding that was correct, yes.

Senator MURRAY. I tend to agree with my friend, Senator Bennett, who said a little earlier, "If these meetings hadn't occurred, we wouldn't have to hold these hearings." I wish those meetings hadn't occurred, and I think my family, at this point, wishes they hadn't as well, but I understand the motivation. I think I know what it's like. I think we all do, when a press story is shaped by leaks and the inclination is to coordinate a response. If you hadn't met, we'd probably all be criticizing the Administration for being disorganized.

Let me ask you the one, really, relevant question here. Have you, Ms. Hanson, ever done anything, anything whatsoever, to impede or derail an investigation at the RTC or the Department of Justice?

Ms. HANSON. Never.

Senator MURRAY. To be complete, are you aware of anybody who is responsible for derailing or impeding an investigation into Madison?

Ms. HANSON. No.

Senator MURRAY. Do you know of anybody or have you yourself ever seen the criminal referrals?

Ms. HANSON. I have never seen the criminal referrals.

Senator MURRAY. Thank you.

Mr. Chairman, from my unique perspective, way down here, it seems to me that the chairs are getting empty and the yawns are getting larger so I'll yield back my time.

The CHAIRMAN. Do I understand you need to take a short break?

Ms. HANSON. Yes.

The CHAIRMAN. I don't want your lawyer deciding it. I want you deciding it, and there's a big difference between the two. I mean, I'd gotten an indication that you needed one, but if that's his thinking and not yours, we're going to continue, no disrespect to him.

Ms. HANSON. Let's continue for a few minutes.

The CHAIRMAN. Very good.

Senator Hatch, you're going to finish your line of questioning now.

Senator HATCH. I'll try to finish this time.

Ms. Hanson, when we finished before, you had called Mr. Nussbaum on February 8, 1994, and I wasn't quite sure what your answer was, but as I understand it, at the time you called him, you were of the view, personally, that the RTC civil case would not be handed over to Mr. Fiske at that time.

Ms. HANSON. I don't remember what my view was, at that point, sir. I've told you what I understood from Ms. Kulka.

Senator HATCH. You don't recall conveying that to Mr. Nussbaum?

Ms. HANSON. I don't.

Senator HATCH. You're not denying that you may have conveyed it to him at that time, are you?

Ms. HANSON. I'm not denying it. I don't recall.

Senator HATCH. Let me jump ahead a few weeks to February 24, 1994, the day that Mr. Altman testified before the Banking Committee. On that day, you received a call from Neil Eggleston. Is that right?

Ms. HANSON. That's correct.

Senator HATCH. On February 24, 1994. He was an attorney in the White House Counsel's Office. Correct?

Ms. HANSON. Correct.

Senator HATCH. He was, then, working for Mr. Nussbaum?

Ms. HANSON. Yes.

Senator HATCH. And Mr. Nussbaum called to ask you whether former U.S. Attorney, Jay Stephens, was the lead outside counsel representing the RTC in the Madison Guaranty matter?

Ms. HANSON. This was after the hearing on February 24, 1994, yes.

Senator HATCH. It was clear to you that Mr. Eggleston viewed this as a problem, wasn't it?

Ms. HANSON. He just asked me the question.

Senator HATCH. He wasn't the only Administration official who complained to you about the RTC's hiring of Mr. Stephens, was he?

Ms. HANSON. He was the only White House official that I spoke to about the matter.

Senator HATCH. But he wasn't the only one who complained to you about it, was he?

Ms. HANSON. There were other people in the Treasury Department that I spoke to.

Senator HATCH. Anybody else in the Administration?

Ms. HANSON. In the White House, no.

Senator HATCH. In fact, Joshua Steiner, the Chief of Staff to Treasury Secretary Bentsen, had told you that he thought Ellen Kulka should be fired for hiring Stephens, hadn't he?

Ms. HANSON. Yes, he did.

Senator HATCH. Michael Levy or Levy—I don't know how you pronounce it—who also works at Treasury, was part of this discussion you and Mr. Steiner had with Treasury. Is that correct?

Ms. HANSON. That's correct. I had several conversations with Mr. Steiner, but there was one where Mr. Levy was present.

Senator HATCH. Mr. Levy pointed out that lawyers hire lawyers based on their expertise as lawyers. Isn't that, basically, what he said?

Ms. HANSON. That's my recollection.

Senator HATCH. You agreed with him. Right?

Ms. HANSON. That's right.

Senator HATCH. Around this time, either Mr. Altman or Mr. Steiner telephoned you to ask how Jay Stephens had been hired. Is that correct?

Ms. HANSON. I was asked. I don't recall if it was in a telephone conversation.

Senator HATCH. Do you remember whether it was Mr. Altman or Mr. Steiner who called you at that time?

Ms. HANSON. I don't recall. I believe that my conversations were with Mr. Steiner, but I don't recall.

Senator HATCH. You told Mr. Altman or Mr. Steiner that Mr. Stephens was hired through the normal RTC contracting procedures. Isn't that what you said?

Ms. HANSON. That's correct.

Senator HATCH. In fact, you said that you were certain this was the case.

Ms. HANSON. That's correct.

Senator HATCH. But Mr. Altman or Mr. Steiner, nonetheless, insisted that you check to see if there was anything irregular in the process in which Jay Stephens was hired.

Ms. HANSON. I was asked to check—

Senator HATCH. Double-check it.

Ms. HANSON. To double-check how he was hired.

Senator HATCH. You understood, at the time, Mr. Steiner was extremely unhappy with the fact that Jay Stephens had been hired. Isn't that right?

Ms. HANSON. I wouldn't say—I wouldn't characterize it as extremely unhappy, but yes.

Senator HATCH. He was unhappy.

Ms. HANSON. Yes, he was unhappy.

Senator HATCH. In another conversation with Mr. Steiner, he asked you whether the RTC civil action could be given to the Whitewater Independent Counsel, Robert Fiske, rather than Ellen Kulka or Jay Stephens. Isn't that correct?

Ms. HANSON. I understood the question was whether the Independent Counsel could assume jurisdiction of the RTC investigation.

Senator HATCH. That was in another conversation with Steiner, he asked you whether the RTC civil action could be given to the Whitewater Independent Counsel instead of the other two, Kulka or Stephens.

Ms. HANSON. I understood it to be Stephens.

Senator HATCH. Right. You also knew, didn't you, that Mr. Steiner was receiving calls from the White House about Jay Stephens?

Ms. HANSON. I understood that.

Senator HATCH. Let me go back to that other question. In another conversation with Steiner, as I understand it, according to your deposition, he asked you whether the RTC civil action could be given to Whitewater Independent Counsel Fiske rather than to Kulka or Stephens. Do you remember stating that in your deposition?

Ms. HANSON. Rather than Stephens?

Senator HATCH. Rather than Fiske—excuse me, Fiske rather than Kulka or Stephens.

Ms. HANSON. Rather than Stephens, not Kulka—

Senator HATCH. Kulka and Stephens.

Ms. HANSON. She's the General Counsel of the RTC.

Senator HATCH. I mean Kulka and Stephens, yes. I think your deposition says, "I also recall a conversation with Mr. Steiner in which he asks whether the Independent Counsel could take over the civil investigation in lieu of Mr. Stephens," and it goes on from there. Do you remember saying that?

Ms. HANSON. Do I remember saying what?

Senator HATCH. In your deposition that I just read to you.

Ms. HANSON. Yes, I do.

Senator HATCH. And that's accurate?

Ms. HANSON. To my recollection, yes.

Senator HATCH. You also knew, didn't you, that Mr. Steiner was receiving calls from the White House about Jay Stephens?

Ms. HANSON. Yes, sir.

Senator HATCH. In fact, Mr. Steiner told you the people at the White House wanted to see if they could get rid of Jay Stephens. Isn't that correct?

Ms. HANSON. That is correct. He did say that. He said—what I recall him saying is, "Do you believe that they want to see if they can get rid of Jay Stephens and everyone agreed and understood that was ridiculous."

Senator HATCH. Do you recall what dates those conversations took place?

Ms. HANSON. It's my recollection that they took place after the testimony—the end of the day—later in the day, on February 24, 1994, possibly running over to the morning of February 25, 1994.

Senator HATCH. And others may have been several days earlier?

Ms. HANSON. Others?

Senator HATCH. With Steiner?

Ms. HANSON. No, they were all within a very close time frame.

Senator HATCH. But some of them may have taken place on February 25, 1994.

Ms. HANSON. I just don't recall, sir. It all happened within a very brief time frame.

Senator HATCH. Just a couple other questions. Ms. Hanson, would you agree that one of the concerns underlying the confidentiality of criminal referrals is that the premature disclosure can jeopardize the prosecution itself?

Ms. HANSON. That's correct, sir.

Senator HATCH. Did you not run such a risk when you informed the White House of the proposed Madison referral on September 28 and 29, 1993?

Ms. HANSON. I know Mr. Nussbaum to be a man of great integrity, an able lawyer. That was the person that I was giving that information to. I expected that he would use that information only for the proper governmental purpose that I gave. In fact, every piece of information that I was given by Mr. Roelle has appeared in the newsprint somewhere so, if there was a problem with jeopardizing the prosecution, it happened from the leaks out of the RTC and not from my conversation with Mr. Nussbaum. Mr. Nussbaum and I are two officials of the Executive Branch who are both bound by the Office of Government Ethics regulations.

Senator HATCH. Ms. Hanson, I was very interested in your statement to Senator Gramm, that the reason you contacted Bernard Nussbaum regarding the criminal referrals was that Mr. Nussbaum was the person at the White House in charge of investigations. I think that was the word you used.

Ms. HANSON. I don't believe that's quite what I testified, sir.

Senator HATCH. That was my recollection, maybe I misconstrued it, but that's—if that was so, then, that may be a breach in the well-orchestrated claim by the Administration—

Ms. HANSON. What—

Senator HATCH. —that all actions were taken in anticipation of press leaks. I'm just noting that for the record. If you didn't, that's OK, but that was my recollection.

Ms. HANSON. What my testimony was, if I could just clarify it, please, is that the internal White House procedures designated Mr. Nussbaum, the Office of Counsel to the President, as the contact for any discussions relating to anything involving an investigation, so as a—he was, as I understood it, with respect to the internal White House policy, the person who was the appropriate person to contact.

The CHAIRMAN. I just want to take a moment here. I was reviewing two documents that were given to me by the Counsel on the Republican side. We'll put the coding numbers in the record. One, is this list of talking points for Roger Altman's informational meeting with Mack McLarty, dated 2/2/94, at the bottom of which was this briefing point where Mr. Altman indicated that he had decided he was going to recuse himself from the decisionmaking process as Interim CEO of the RTC and so forth.

Then, there is a subsequent briefing document, which, apparently, was used by you and others up here on the Hill, that has the same items, although it drops off the last item, which is the recusal item. You made a passing reference, a few moments ago,

to a meeting with my staff and me at a point in February. I remember that meeting.

I remember that meeting for the purpose of discussing the likelihood of appointing a man named Larry Simons to head up the RTC. You were coming to indicate that you were looking at him, what his qualifications were, how he might be received, and so forth and so on. I remember no effort, whatsoever, to go down through a process, like this discussion off of a set of talking points, with respect to the discussions or points made by Republican Senators on tolling agreements, Jim Guy Tucker, or any of this business. I mean, that wasn't the focus of the discussion that day, and I just don't want that inference left on the record.

Ms. HANSON. If I could clarify, too, for the record as well, Senator. The discussion—as I recall, the discussion was, in fact, on Larry Simons as a possible CEO nominee. I recall, at the end of the discussion, having a discussion with you and your staff on the fact that the statute of limitations was running on Madison Guaranty and that, in fact, work was being done, at that point, to extend the statute of limitations, and that Mr. Altman was still involved in the process. But it was not—this was, clearly, not a meeting set up, specifically, to talk about that issue.

The CHAIRMAN. Let me be clear with you. I've been talking with the staff here. Apparently, in the course of the meeting on Mr. Simons, there was something else going on. He was having people make side phone calls on totally unrelated matters. I don't have any recollection of talking with you about these items on this list. I remember Larry Simons and that's it, and I think I would have a memory of this if I had been engaged in that conversation. To the extent you discussed it with staff—

Ms. HANSON. OK.

The CHAIRMAN. —that may or may not have happened but, the point is, there was no substantive discussion with me on the points on this list or I would clearly remember it. Is your recollection different than that?

Ms. HANSON. I recall, sir, that you were in and out. But I recall discussing at least a part of this with you being present.

The CHAIRMAN. It rings no bells with me. I remember Larry Simons because we talked about it at some length. Wasn't that the purpose of the meeting, to go over—

Ms. HANSON. Absolutely, it was the purpose of the meeting and I understand not being able to recall things.

The CHAIRMAN. I think I would recall this if you had come and given me a briefing—did you come and give somebody else in the Senate a briefing on this? Was this a talking point prepared for other meetings at other times?

Ms. HANSON. It was prepared for other meetings at other times. I, personally, didn't talk with anyone else in Congress on it.

The CHAIRMAN. When it has—there's a mystery document. On our side, next, is Senator Dodd. Did you want to be recognized? Senator Boxer, I guess, had wanted to be also—

Senator DODD. Just very briefly, and I'll yield time to my colleague from California. Sitting here, let me just express my own views as I listen and look at the cluster of issues before us. It seems to me, there are three issues, and others may find more. The



first issue is the question of statutory authority, which saddled you with, or transferred to you, this responsibility to act as a General Counsel of the RTC. I, again, will emphasize the point I think others have made already, but it needs to be emphasized, and that is I find this to be a terrible sense of bad judgment. With hats switching all the time, to put people in that position is troublesome. There is at least a real potential for conflict of interest, not to mention the appearance of conflict of interest. Again, that's something we're going to correct with the law but, someone, in my view, should have had some ability to make a judgment call that this was inviting a problem. I think that's one cluster of issues.

The second, is congressional testimony. I was not at the meeting in which Senator Gramm, Senator Bond, and Senator Domenici raised the issues of questions to Mr. Altman, but I've been a Member of Congress for 20 years and have attended a lot of hearings over a lot of years, and I understand how it's a little difficult for some of the staff to jump in when either one of us is asking a question or a witness is testifying. I'm not going to argue about that particular moment. But, I've got to tell you, Ms. Hanson, I find it inexcusable that almost 3 weeks could go by without someone coming back on this issue. Others may wander around that set of questions. I find it hard to draw that conclusion.

Third, with regard to the contacts at the White House, in my view, there were far too many meetings, far too many people, and far too vague lines that were drawn here. It seems to me, that's becoming obvious and it was sloppy. The old smell test, for those of us who have been around here. This should have been handled better than it was handled.

Those are three clusters of issues that I find troublesome. I think it's also important to put everything in some sort of perspective. Even though a lot of time gets spent on these issues, I come back to the questions I asked you in my first round which come back to the issue of whether or not anything was done here to in any way jeopardize these criminal referrals or to in any way try to influence those decisions.

Now, I know others have raised the issue we don't know if something was done. It's hard to prove a negative, and I'm waiting to see if any evidence emerges to see if something was done. To this juncture, nothing has. That, to me, is a very critical issue. So, while I'm concerned about this testimony to Congress, I think that, in and of itself, is a set of legitimate issues to be addressed, and, certainly, the statutory authority and the contacts with the White House are also. This is awfully confusing to people watching and listening to it. At the end of the day, did something happen here which jeopardized these criminal referrals? At this juncture, the testimony that all of you have given, under oath, before this Committee, is that nothing was done; no obstruction of justice to interfere with those criminal referrals.

The bottom-line issue, at least as far as this Senator is concerned—the ethical issues others are addressing, I think, are troublesome. And more than troublesome doesn't do them justice, because we send out messages to future witnesses about how to perform before congressional panels. But, on the bottom-line issue, on the serious note of whether or not there was any damage done to

the legal process, I'm satisfied, at this juncture, that's not the case. Regarding congressional testimony, there was bad judgment on statutory authority, and sloppy operations. I think there's a real concern.

The CHAIRMAN. Senator Roth.

Ms. HANSON. Could we break? Could we break for a few minutes, sir?

The CHAIRMAN. Let's take a brief break and come back in. We're going to be here past midnight if we don't get back at it.

The Committee stands in recess for a short period of time.

[Recess.]

The CHAIRMAN. Let me invite everybody to get seated so we can resume.

Ms. HANSON. Senator Riegle, if I might, Senator Dodd raised some points before the break, and I did not have an opportunity to respond to them, adequately. I would like an opportunity to do so.

The CHAIRMAN. Go ahead.

Ms. HANSON. Senator Dodd raised three areas of issue. One is authority. The second is the testimony, and the third is the contacts.

In terms of the authority, I had plenty of authority to do what I was doing. There was no need for a particular detail. There is an Attorney General's opinion that says no formal detail is required and, in fact, informal details happen all the time. To the extent what I was doing was a detail, although I didn't consider it to be a detail, there was ample authority for me to do that without having to have a writing in place to evidence it.

With respect to the second issue, the testimony, as I have testified, I did not have a transcript and, as a careful lawyer, if you can't look at it, can't read it, and can't hold on to it, then, you can't respond to it, and I was not able to respond to it. I didn't have it. As I've testified, on March 4, 1994, my participation in this came to an end. That was the end of my participation in this. I can't respond to why it took 3 weeks, or why other letters came in. I did not participate in it. I was under instruction from my counsel, having received a Grand Jury subpoena, to cease all involvement and all conversations with anyone about this matter, and I did that.

The CHAIRMAN. I might say, I think it's important that you did. It's a significant fact, and was appropriate for you to do. That should be acknowledged.

Ms. HANSON. The third issue that Senator Dodd raised was the contacts. I was involved in three contacts. I was involved in a meeting with Mr. Nussbaum, the purpose of which was to report on press leaks. I was involved in a meeting on October 14, 1993, that I was invited to, addressing specific press inquiries going to Treasury which created the implication that Treasury was—or the Administration was interfering in the proper processing of criminal referrals. It was in the interest of the Government to make certain that a story with incorrect information, that cast that sort of light on the Administration, was not written.

The third meeting was the February 2, 1994, meeting in which the statute of limitations was discussed. This was purely procedural, an application of law to facts. Mr. Altman's recusal was also

discussed at this meeting. Those are the contacts I have had. I have had other miscellaneous conversations with people. I have talked with attorneys in the office of—in the Counsel to the President. In my view, not a single one of them is significant.

Mr. Cutler has said there were too many contacts. They were not controlled. That may very well be. My contacts—I had three principal contacts, and I've gone over them—each one, in my view, had a proper governmental purpose, and was legitimate and appropriate.

The CHAIRMAN. I'm going to—

Senator GRAMM. Mr. Chairman, would you yield for 1 second.

The CHAIRMAN. I will in a second. I'm going to clarify—

Senator BOXER. We have to keep with the time.

The CHAIRMAN. We are going to stay with the time. With respect to the transcript from the hearing, the Treasury Department received a transcript, from this Committee, the day after the hearing. If you're the General Counsel over there, and I don't know how things get passed around within the Treasury Department, we have the name of the individual that received the transcript the day after the hearing. So, you should understand, the record should be clear that the Treasury Department had a full transcript 24 hours after that hearing.

Why you didn't get it, or somehow were out of the loop on it, we can't begin to answer, but you should understand, the Department, for which you're the top lawyer, had one the day after the hearing.

Ms. HANSON. Senator Riegle, Mr. Altman didn't have one on March 1, 1994, either, so I don't know what happened to the transcript.

The CHAIRMAN. You may want to go back tomorrow and ask—

Ms. HANSON. I will, absolutely, go back and check this out.

The CHAIRMAN. I want to go to the questions. I'm going to call on Senator Roth. Is it critical, Senator Gramm, or should we go to Senator Roth?

Senator GRAMM. I'll wait and come back.

The CHAIRMAN. Senator Roth.

Senator ROTH. Yes. Mr. Chairman, last Friday, in my opening remarks, I expressed concern about two things. One, was whether our rules, policy, and guidelines on matters of ethics and conflicts of interest were adequate. Second, whether or not these rules were adequately enforced. As I listen to the testimony today, I become aware there have been some pretty strict policies established both in the RTC, as well as in the White House, but the thing that concerns me, Ms. Hanson, is I see very little evidence of any effort being made to enforce these rules and regulations.

In the case of the RTC, it was established this morning that it is the policy of the RTC not to disclose criminal referrals, or information about their preparation, on an institution-specific basis. In answer to a question as to whether there were any exceptions to that policy, whether referrals extended to press inquiries, we were told there were no exceptions of any type.

Now, my question to you is whether or not, in your discussions and determination of contacting the White House, the policy of the RTC came under consideration in any way?

Ms. HANSON. No, sir, but I believe the policy of the RTC, as I understand it, is that criminal referrals are to be confidential and that there is no exception for talking to the press. If that's the case, then that policy and that regulation were breached by the RTC employee, or employees, who gave the press all this information which was the reason that I ended up talking with Mr. Nussbaum. If that hadn't occurred, then the conversations wouldn't have taken place.

Senator ROTH. At the time you contacted Mr. Nussbaum, was it clear that there had been a leak, and were you aware of what that leak was?

Ms. HANSON. There was absolutely no question, in my mind, at the time I spoke with Mr. Nussbaum, that either it had been leaked or was about to be leaked. That view was confirmed, the following day, by an RTC Early Bird. In addition, as I've stated, the IG report—the IG chronology, that was released yesterday, showed reporter interest on September 23, 1993.

Senator ROTH. But, if I understand your testimony, Ms. Hanson, at the time you called Mr. Nussbaum, you did not, specifically, know whether or not there was a leak. As you just said, either there had been a leak or you knew there was going to be a leak.

Ms. HANSON. Whether I knew—

Senator ROTH. The facts are you did not, actually, know at that time. Is that not correct?

Ms. HANSON. That's correct, and it was not relevant to my decision because, if I had sat around and waited to make sure there was a press leak, by that time, it may have been too late—

Senator ROTH. Are you saying that you believe because there might be a leak—

Senator D'AMATO. Will the Senator yield for just a moment? I'd like to know, too late for what? You come and you say—and I understand the contention that if there are leaks, et cetera, but there was no leak. You say because you feared there was a leak, therefore, you could then cross this line to brief someone. It's very questionable whether they should have been briefed about a potential leak. The Senator says, "Well, at that point in time, there wasn't a leak." You said, "Yeah, that's right, but it would have been too late." Too late for what?

Ms. HANSON. Sir, I didn't say, at that time, there wasn't a leak and, in fact—

Senator D'AMATO. The Senator said, and it was his contention, there was no leak. The records indicate there was no public information out at that time. Now, question, you then said, "Well, that's why we had to do it now because, otherwise, it would be too late." What do you mean by "it would be too late"?

Ms. HANSON. Sir, what I meant was it was necessary, in my view, that the White House be in a position to prepare themselves for possible inquiries, for inquiries that, in my judgment, understanding the situation and having spoken with Mr. Roelle, were going to occur and, in the end, in fact, occurred.

Senator D'AMATO. But what did they say when—

Ms. HANSON. In answer—

Senator D'AMATO. Wait a minute.

Ms. HANSON. May I finish?

Senator D'AMATO. Yes, go ahead.

Ms. HANSON. May I finish, please? In fact, it did turn out that reporters had incorrect information and, if they had printed the story based on the incorrect information they had, it would have put the Administration in a prejudicial light, the implication being that there——

Senator D'AMATO. Did you correct——

Ms. HANSON. May I finish?

Senator ROTH. Mr. Chairman, may I have my full time?

The CHAIRMAN. We're on your time.

Senator D'AMATO. I'll yield him my time.

Ms. HANSON. May I finish my statement?

Senator SARBANES. Why don't we let Ms. Hanson complete her answer and go back to Senator Roth?

The CHAIRMAN. You can complete your answer.

Ms. HANSON. The information that the reporter had was that the referrals were being held up at the RTC and not forwarded to the Justice Department. That was the inquiry that came into the Treasury. The clear implication of the question being that the Administration or the Treasury was interfering with the processing of the criminal referrals. It was in the interest of the Government, I believe, that this story, this reporter's information, be corrected, and that this story not be printed. That is one of the reasons why people are aware of information, so that they can deal with inaccurate press stories, or press inquiries, that if printed, would be prejudicial and damaging.

The CHAIRMAN. You've made that point. I want to ask the clerk to restore some of Senator Roth's time, so that the time of your statement isn't charged against his statement.

Senator ROTH. Ms. Hanson, in answer to my question, you said there was no factual knowledge at the time you made the contact. My concern, and my question, is if you don't need to have any actual leak or press inquiry, doesn't that exception swallow the rule? Doesn't the rule become a nullity? Would you answer?

Ms. HANSON. Sir——

Senator ROTH. If at any time a person thinks there may be a press inquiry, an exception can be made to the rule of confidentiality, doesn't that really destroy the rule of confidentiality?

Ms. HANSON. I don't believe that two Executive Branch officials speaking with each other on a matter relating to possible press inquiries or other governmental—in another governmental function breaches the confidentiality.

Senator ROTH. That's not my question.

Ms. HANSON. I'm sorry, sir.

Senator ROTH. My question was, doesn't—if your logic is pursued, and an exception to the rule of confidentiality can be made any time there is a suspicion or belief that there is going to be a press leak, doesn't that destroy the rule of confidentiality, for all practical purposes?

Ms. HANSON. As I stated, I think that two governmental officials in the Executive Branch talking to each other doesn't destroy the confidentiality.

Senator ROTH. Let me point out what the RTC stated, in a written response to questions, after the February 24, 1994, hearing:

The disclosure of any information concerning a criminal referral may serve to alert a suspect that an investigation may be pending, enable the suspect to conceal or dissipate the proceeds of the crime, fabricate evidence, or otherwise impede the investigation.

Aren't these legitimate concerns?

Ms. HANSON. Absolutely. I couldn't agree with you more. That is why the employee, or the employees, at the RTC who leaked this information to the press, I believe, should be investigated.

Senator ROTH. Did you discuss with anyone the RTC policy and how it should be applied to the immediate case?

Ms. HANSON. No, sir, I didn't believe I needed to.

Senator ROTH. You didn't think you needed to, but that was the basic policy of the agency responsible for administering the law.

Ms. HANSON. Sir, I understood that two Executive Branch officials could speak with each other in pursuit of a proper governmental purpose.

Senator ROTH. Under that interpretation, couldn't you discuss a referral at any time? If the rule is that two Government officials can discuss a criminal referral, then the rule, again, becomes a nullity, doesn't it?

Ms. HANSON. I believe in that case, one has to look at the purpose for having the discussion. If there is a proper governmental purpose, then I believe a discussion can be had. I know, and it's the policy of the RTC and the Treasury, that criminal referral information is sensitive, and must be handled with extreme care.

Senator ROTH. Would you extend this privilege to anyone but the President?

Ms. HANSON. Excuse me?

Senator ROTH. Let me put it this way: Would anyone else, who might be subject to a press inquiry, be entitled to the same kind of information?

Ms. HANSON. Sir, it would depend on the situation.

Senator ROTH. But there are circumstances in which you would answer in the affirmative?

Ms. HANSON. There are situations, absolutely, where the need to know information in order to be able to deal with press inquiries would be—is a proper governmental purpose, just as this one was.

Senator ROTH. Let me ask you this: Are you familiar with the guidelines established by Mr. Nussbaum?

Ms. HANSON. I don't know which ones you're referring to, sir.

Senator ROTH. The memorandum from the Presidential Counsel Nussbaum entitled, "Prohibition of White House Staff Contacts with Independent Regulatory Agencies." It was dated February 22, 1993. Are you familiar with that memorandum?

Ms. HANSON. Yes, sir. I don't have a copy in front of me, but I'm, generally, familiar.

Senator ROTH. That memorandum says:

There is generally no justification for any White House involvement in particular adjudicative or rulemaking proceedings at any agency. Therefore, as a general rule, no member of the staff should contact any agency in regard to any adjudicative or rulemaking matter pending before that agency.

Are you familiar with that language?

Ms. HANSON. I've heard that language, sir.

Senator ROTH. Did that rule come up in discussions at any time, either in the Treasury or with the White House?

Ms. HANSON. In terms of my conversation with Mr. Nussbaum? Senator ROTH. That's correct.

Ms. HANSON. There was no White House involvement in any adjudicatory process. There was no White House involvement, in this process, at all.

Senator ROTH. But we are talking about the RTC. They are the ones that are the adjudicative agency, are they not?

Ms. HANSON. Perhaps I should have a copy of what you're reading from in front of me.

The CHAIRMAN. Let's get one for you. We extended the time period, to make up for the time, and it's expired. I want to try to continue on. I don't want to be arbitrary, in terms of Senator Roth getting an answer to his question, but if you're going to have to study the document—Senator Roth—

Senator ROTH. Yes, I don't have a copy of the memorandum.

The CHAIRMAN. Do you mind, then, if I shift across here?

Senator ROTH. We'll come back to that.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Thank you, Mr. Chairman.

Ms. Hanson, I want to ask you a couple of questions which are fairly direct, ultimately, but I want to get at them because I don't want to leave this for conjecture within the Committee and, certainly, with the press. I think we need to try to understand it completely. You say you viewed a tape at some point. Is that correct?

Ms. HANSON. Of the hearing?

Senator KERRY. Yes.

Ms. HANSON. I viewed only the portion that included two questions asked by Senator Bond.

Senator KERRY. Why is it that you only viewed that particular portion?

Ms. HANSON. Because there was a call, as has been alluded to, a call from Mr. Podesta to Mr. Altman, and Mr. Altman called me to his office and said he had heard, from Mr. Podesta, that there was a concern about the way he had responded to two questions of Senator Bond. As I said, we didn't have the transcript—

Senator KERRY. I understand that, but one of the questions, that Mr. Podesta was concerned about, was one of the questions that Senator Gramm asked about contacts. Correct?

Ms. HANSON. I was not given that information by Mr. Altman, sir.

Senator KERRY. You were told what?

Ms. HANSON. Only—I was only asked questions about Senator Bond.

Senator KERRY. About—

Ms. HANSON. About Senator Bond's questions.

Senator KERRY. This is on March 1, 1994. Correct?

Ms. HANSON. To my recollection, yes.

Senator KERRY. In previous testimony, I think in answer to Senator Gramm, you said that you're absolutely positive that Mr. Altman directed you to go to the White House. Correct?

Ms. HANSON. That's my recollection, sir.

Senator KERRY. How many times had you been to the White House on business previously?

Ms. HANSON. On business previously? I can't give you an exact count, but it was not many.

Senator KERRY. Had you ever gone over there alone to meet with Mr. Nussbaum?

Ms. HANSON. As I sit here, I don't recall that I had, sir.

Senator KERRY. I assume it would stand out in your memory, as a new lawyer in Washington, that you'd been directed to go over to the White House within a short span of time. You would remember if you had been to visit with Mr. Nussbaum.

Ms. HANSON. I'm sorry, I don't understand your question.

Senator KERRY. I said, I assume it would stand out in your memory. A visit to the White House to meet with Mr. Nussbaum, within a matter of months, would not be something that you could confuse or forget.

Ms. HANSON. Recollections aren't perfect, but—

Senator KERRY. Do you recall going to the White House and seeing Mr. Nussbaum?

Ms. HANSON. Absolutely I do, sir.

Senator KERRY. There's no question in your mind that you recall that?

Ms. HANSON. There's no question in my mind.

Senator KERRY. The reason I ask is when I look at this working document that came out of your computer, the first four sentences in it—let me read from the testimony before the Committee on page 69 of the Committee record:

Senator BOND: How is the White House notified of the referral?

On your working document:

Senator BOND: How was the White House notified of the referral?

Next, reading from the Committee record, Mr. Altman answers: They were not notified by the RTC, to the best of my knowledge.

On your working document:

They were not notified by the RTC, to the best of my knowledge.

Next question from the record of the Committee:

Senator BOND: Nobody in your agency, to your knowledge, advised the White House staff this could be a major source of concern?

On your working document:

Senator BOND: Nobody in your agency, to your knowledge, advised the White House staff this was going to be a major—this could be a major source of concern?

Mr. Altman's answer, "Not to my knowledge," totally corresponds to his answer in the Committee record.

All of a sudden, there was this departure, which you have described as a working document for your memory. I must say to you, as I read this working document for your memory, I am really dumb struck by the number of answers you give to proposed questions. It's as if you were working through this testimony in a way that you could correct it for the Committee, trying to find what is correct but, in fact, one, two, three, four, five, six, seven, eight fundamental issues of memory are wrong.

Ms. HANSON. Sir, I don't have the document in front of me and I don't know—

Senator KERRY. I can get a copy.

Ms. HANSON. —and I don't know what you're referring to.



Senator KERRY. I am referring to your working document that came out of your file, which was on your computer, in which you asked yourself a question, "Was anyone else present," and, then, gave yourself the answer, "I believe Cliff Sloan, another White House attorney, was there." This was a lawyer-to-lawyer conversation. You, asking your own question to yourself:

*Question:* What else did you tell him?

*Answer:* I don't recall I told him anything else.

Do you remember that document?

Ms. HANSON. Could I have a copy of the document, if you're going to question me on it?

Senator KERRY. It's number 4466 and 4467, Exhibit 19.

Senator GRAMM. What was the date on that, do you know?

Senator KERRY. It is a March 1, 1994, document, and it comes out of the computer file. Do we have a copy of it? Do you recognize that now?

Ms. HANSON. I don't recall ever seeing the document, in this format, before.

Senator KERRY. Do you recall writing these questions to yourself?

This is pretty fundamental stuff. This is on March 1, 1994. On your computer, you're sitting there asking yourself questions which are really a play right off of the Committee. This occurs one day before a letter comes to this Committee, supposedly correcting the record, and two days before Special Counsel Fiske issued a subpoena for all records. As I read this, you ask yourself a question:

*Question:* Who in the Treasury or the RTC knew you had this conversation?

Your own answer to yourself, just months before this happening, you say:

*Answer:* I don't recall I told anyone of the conversation.

We now know that's not true. You did tell somebody. You told Mr. Altman.

Ms. HANSON. Which I still don't recall, but my September 30, 1993, memorandum reflects that I did, that I got back to him.

Senator KERRY. You don't recall that you told him that?

Ms. HANSON. This is the question—

Senator KERRY. You do recall that you were asked to have the conversation, because you testified to Senator Gramm that, indeed, you never would have gone to the White House if you hadn't been asked. Correct?

Ms. HANSON. What I've said is—if I could clarify, please—I wouldn't have spoken with Mr. Nussbaum, about this kind of information, without having been authorized to do so. I did not, however, just so I can clarify, go to the White House to see Mr. Nussbaum on this issue. I went to the White House for a prebriefing, of Mr. Nussbaum and some other people, on the Treasury report on the Waco situation, which was going to be released the following day. So, it was a brief conversation following a meeting on—

Senator KERRY. I understand that, but in fact, according to the depositions, you had been asked to call Mr. Nussbaum. You did call Mr. Nussbaum. Mr. Nussbaum was not in. You left a message, so he knew you were trying to reach him. You then went to the White House. You took advantage of the meeting. You pulled him aside afterwards, and you informed him and, then, wrote a memorandum to Mr. Altman that you had informed him.

Here, in your own answers to yourself, not coincidentally, I suspect, at the same time that Mr. Altman sends his first correction to this Committee, you're saying to yourself, "No, you didn't, no." No one asked you to have this conversation. You're saying that you had little to add, because you knew nothing more about the issue and that you weren't involved in the handling of the press, which is absolutely untrue, because you've testified here all day that you were there to help them deal with the press.

So you've got—I'm incredulous that the Counsel to the Treasury is writing herself a series of questions and answers which are so incorrect, so contrary to the testimony, and which flow almost as if you're setting yourself up to take the fall for Mr. Altman or to provide some series of answers that, then, got cut short because of the transference of events.

Ms. HANSON. If I could explain, sir.

Senator KERRY. That's why I—

The CHAIRMAN. Before you do—and I'm going to have you explain it. The time has expired. Senator D'Amato has said that he'd like Senator Kerry to finish this, so we'll make that allowance. Why don't you go ahead and give your response.

Senator D'AMATO. If I might, Ms. Hanson, I have to tell you Senator Kerry has struck with this Senator a very, very responsive chord. I think you ought to think about how that memo came about. What were you trying to do when you were preparing that memo? I stop, I yield there, because it really raises a question in my mind.

The CHAIRMAN. You were about to respond, so why don't you go ahead.

Ms. HANSON. If I could, on March 1, 1994, a call came in from John Podesta saying there was a concern about responses to Senator Bond's questions. As I've testified, we found the two Senator Bond questions and transcribed them off the tape. I went back to Mr. Altman's office and he was on the phone with Mr. Podesta and said—and he said, "I understand that there was a meeting at the White House on—I understand that you talked with Bernie Nussbaum about this," and I said, "Yes. I talked with him by phone." That was my initial recollection.

"I talked with him by phone," and he said—as he continued his conversation with John Podesta, he said, "Mr. Nussbaum remembers that it was a stayback after the Waco prebrief," and I said, "That's right. Now that I remember that, now that I've heard that, I now remember that it wasn't a telephone conversation that I had with him," which was my initial recollection. It was, in fact, a stayback after the Waco prebrief.

So there we are. We have the two Senator Bond questions. They need to be addressed so I take a laptop computer home and, late at night, I start trying to recall, refresh my recollection as to what actually had happened 4 months earlier in specifics that I hadn't thought about since then.

Senator KERRY. Well—

Ms. HANSON. There were certain things I remembered, as you look through here. There are certain things I remembered. There are other things I did not recall correctly. As I went through the process, over the course of the next several days, of trying to recall

what happened, I recall, as I focused on it specifically—this was my first cut. This was done in the middle of the night on March 1–2, 1994, as I was trying to remember what happened.

But as I thought about it over the course of the next several days, it occurred to me, and I remember that I, in fact, did have a conversation about this with Mr. Altman. That is why I went to the White House. In fact, as I say, Mr. Nussbaum has testified that in my initial conversation with him, I told him, which I don't recall, that Mr. Nussbaum—that I understood Mr. Altman had given him information about this, which I otherwise wouldn't have known if I hadn't spoken with Mr. Altman.

Senator KERRY. I hear what you're saying, as do my colleagues, but I have to tell you I find it very hard to take at face value because you are a lawyer. You are Counsel to the Treasury. It is extraordinary to me that Mr. Altman's answer was they were not notified by the RTC, to the best of my knowledge:

Senator BOND: Nobody in your agency, to your knowledge, advised the White House?

Mr. ALTMAN: Not to my knowledge.

At that time, that wasn't true. You knew that wasn't true.

Ms. HANSON. I didn't know that wasn't true. That was my recollection at the time I——

Senator KERRY. Your recollection at the time was, but you later learned that wasn't true.

Ms. HANSON. I recalled, as I continued to think about these events over the course of the next several days, that, in fact, I had had a conversation with Mr. Altman. I just didn't recall it at the time that I first started trying to refresh my recollection on this issue.

Senator KERRY. I understand.

Ms. HANSON. I may, sir, be the General Counsel of the Treasury. I'm also human, and I don't recall everything with perfect recollection.

Senator KERRY. Mr. Chairman, my time is up. I just want to say to you, I'm also human, we're all very sympathetic to you. I'm truly not trying to pick on you. I don't think we're trying to do that, but we have to test the reasonable standard, here, for a lawyer and counsel in an important position. We get a letter, one day after this, in which you have these denials, a letter from Mr. Altman, which you helped draft, and that letter says to us, in three separate paragraphs, things that are inaccurate. The letter never mentions the recusal that you knew, sitting there, was incorrect, and you said, "We couldn't change it then."

Here was your opportunity to change it. In that letter, there was not only no change, but there were representations that fell more in line with this which we now know to be inaccurate.

Ms. HANSON. First of all, I disagree with that characterization.

Senator KERRY. Let me read the letter of March 2, 1994, to you:

Dear Senator Riegle, I testified before your Committee, last Thursday, in connection with the semiannual oversight hearings on the RTC. There was a discussion, as you remember, of a meeting which I had with representatives of the White House. As I indicated, no nonpublic information was provided to that meeting on any aspect of Madison Guaranty.

That's not accurate. The next paragraph——

Ms. HANSON. Sir.

Senator KERRY. Senator Bond—

Ms. HANSON. Could I answer that? If you're going to tell me there are inaccuracies in this letter, then, I think I should have the opportunity to give an explanation.

The CHAIRMAN. You should. Here's the problem we're running into. You've been on the stand 5 hours now. It's 10 p.m. There are questions—

Senator KERRY. I don't want to raise a question. I think it's unfair to her, the Administration, or anybody to raise a question not answered. I really don't want to do that. I also don't want to take too long—

Senator D'AMATO. In fairness to the witness—

The CHAIRMAN. Senator Kerry, that letter's there, you've read part of it. Why don't you give your response and, then, I want to make a recommendation as to how I think we might try to conclude this evening.

Senator KERRY. Let me leave the final part of this. The last paragraph reads:

But I have learned, today, of two conversations which dictate place between Treasury staff and White House personnel in this matter.

Again, that is not correct. I think you knew at the time it wasn't correct, because your own testimony has indicated that you had the prior conversations and wrote the memo to Mr. Altman himself.

Ms. HANSON. Sir, if I might, please—

Senator KERRY. Absolutely. That's exactly what we want.

Ms. HANSON. I have testified, under oath, now numerous times on this matter. I'm a lawyer. I have a clear recollection of having spoken with Mr. Altman. I did not recall it at the time I did these questions. At the time the letter, the March 2, 1994, letter, was sent, and I read it, I didn't draft it, but I read it, Mr. Altman's recollection, that he had just learned about them, was consistent with mine.

I later learned—I later recalled that I had spoken with him about it. I didn't recall it at the time the letter was written. As I said, that's part of the difficulty in trying to do things in a piecemeal fashion. I also could, sir, in response to your statement that there was a statement in the first paragraph of the letter that was wrong, that says no nonpublic information was furnished—

Senator KERRY. At that time, it was not public.

Ms. HANSON. I understood that sentence, as I read it, to relate to the substantive underlying civil investigation of the Madison civil matter. That's what I understood it to say. That was correct, because there was no substantive information on the underlying Madison civil investigation.

Senator KERRY. We're going back. I don't want to abuse this process. Mr. Chairman, let me just say, I thank you. I think it's very important to hammer away at this, to try to clarify it, because this is central to all of our concerns, and I want to make sure you have adequate opportunity to address it.

The CHAIRMAN. It's a very important predicate to tomorrow's witnesses. I mean, I think that's been made clear on both sides. Let me just say to my colleagues, I'd like to see if we can't arrive at an understanding as to how we can finish tonight. The witness has been there a long time, and I think it's tough to be there when

you're facing off against a large number of people. That's the nature of things. You've made your points and you've held up very well, which is to your credit. I'd like to see if we can't finish up no longer than a half hour from now. I don't know that it should take that long. I don't want to be arbitrary. Senator D'Amato has asked to go next. I've talked to Senator Bennett.

Senator BENNETT. Five minutes.

Senator GRAMM. Mr. Chairman, I don't want to be the bad guy—go ahead.

Senator BOND. Mr. Chairman, my name has been mentioned in this, and I have yet to have an opportunity to ask this witness a question tonight—

The CHAIRMAN. You should have that opportunity.

Senator BOND. —and I would like to explore several areas.

Senator BOXER. Mr. Chairman, I'd like to have 7 minutes, 5 minutes.

Senator GRAMM. Mr. Chairman, again, I think everything these hearings are about really boils down to the veracity of, to some extent, this letter on March 2, 1994. There are just so many things that we've got to go back to, and ask questions about, or else it's not fair to everybody whom we're going to talk to tomorrow.

The CHAIRMAN. Then, I think my thought on that would be, we're scheduled with the witnesses tomorrow, and we should stay and finish. I guess I would just ask everybody to try to make allowances of the time—

Senator SARBANES. Do you have any idea of how much time—Senator Bennett said 5 minutes, and Senator Bond?

Senator BOND. Twenty minutes, at least.

Senator SARBANES. Senator Domenici.

Senator DOMENICI. I reserve 5 minutes.

Senator D'AMATO. I'm going to need 15 to 20 minutes.

Senator GRAMM. It depends on how long the answers are, but I think I can do mine, say, in 20, 25 minutes.

The CHAIRMAN. And on this side, Senator Boxer has asked for 7 minutes.

Senator MOSELEY-BRAUN. Five minutes.

The CHAIRMAN. Five minutes for Senator Moseley-Braun. I believe I've asked my questions, and I think we've got a hearing record here—

Senator SARBANES. I would only have questions if they were prompted by other questions that might be asked. I do think there's a need to try to draw this hearing to a close. This witness has been before us, and I think that some of the questioning has become repetitious, not all of it but some of it.

The CHAIRMAN. Not surprisingly, Senators have had to come and go so, we've covered some of these issues 2 or 3 times. I do think it's important that Senator Bond—believe me, you've been mentioned a number of times when you were not here, because we've gone over and over the questions you posed—but I think you certainly need to have an opportunity to ask those questions and get the answers. Senator D'Amato, you're controlling the time—

Senator D'AMATO. I'm going to try to move as quickly as I can, in the interest of time, on behalf of the witness. There are no trick

questions here. This has all come from statements you've made so, it's basically just going over material.

On February 1, 1994, your appointment record shows, and you've testified, at 10 a.m. you had a meeting. Mr. Levy, Mr. Newman, and Mr. Altman were there, maybe some other people, and that was followed up by a meeting with Secretary Bentsen. Could you describe what took place at that first meeting and the second meeting? I'll try to help. You testified that Secretary Altman stated he would recuse himself and then you went into the second meeting. Does that help you?

Ms. HANSON. Yes, sir.

Senator D'AMATO. I am trying to be helpful.

Ms. HANSON. Thank you. I appreciate that. What I recall of the meeting at 10 a.m., there was a meeting in Mr. Altman's office. Mr. Newman, Frank Newman, was there. Mr. Levy—and there was a discussion of recusal. What I recall of the conversation was a discussion of what a CEO, in a private corporation, would do if faced with a similar situation where there was a claim, or a possible claim, against a friend of the CEO and how it would be handled.

There was a discussion. Mr. Newman, I recall, said that it would go to a special committee or the board. There was a discussion as to whether it would come back to the CEO, if the CEO had the opportunity to hear about it before—

Senator D'AMATO. Was the subject, that Mr. Altman was going to recuse himself, discussed?

Ms. HANSON. I don't recall that statement being made in that meeting or how the meeting ended.

Senator D'AMATO. You came to the second meeting, and you were rather specific there, at 12:30 p.m. with the Secretary, and let me read what you said. Do you recall what you said?

Ms. HANSON. It was 12:45 p.m., if I recall, and this is a meeting with the Secretary, Mr. Altman, and me?

Senator D'AMATO. Yes.

Ms. HANSON. I believe, in my testimony, I testified that there was a discussion on the statute of limitations issue. Mr. Altman said that he had decided he would recuse himself, that I had recommended he do so, and that he thought there would be a great deal of political clamor and criticism as to whether or not he could be impartial. The Secretary asked who would decide—who would be the decisionmakers and asked a little bit about Ellen Kulka and Jack Ryan. He told Mr. Altman that it sounded like the right decision.

Senator D'AMATO. The Secretary told him that?

Ms. HANSON. That's my recollection, sir. Then, Mr. Altman said he wanted to go to the White House to apprise the White House officials of his decision on recusal before they learned of it from someone else. I said I would go along.

Senator D'AMATO. You told him you thought if he went, you should go with him?

Ms. HANSON. That's right, sir.

Senator D'AMATO. Fine. At the February 2, 1994, meeting at the White House, do you recall what happened?

Ms. HANSON. I think, in my written testimony, I testified to the extent of my recollection of that meeting already, sir.

Senator D'AMATO. Do you want to go over that?

Ms. HANSON. Do you want me to do it again?

Senator D'AMATO. Yes, because you didn't testify to it here. I'd appreciate it, if you gave a deposition—Altman first reads down the talking points. You had prepared talking points.

Ms. HANSON. That's right. I had prepared talking points and—

Senator D'AMATO. What about Mr. Altman and the subject of recusal?

Ms. HANSON. Do you want me to go through this meeting?

Senator D'AMATO. Yes. I want to—

Ms. HANSON. I prepared the talking points. I discussed them with Mr. Altman before we went over, and pointed out the last talking point. We arrived. Mr. Altman went through the talking points. I've previously testified as to who attended the meeting. Mr. Altman went through the talking points, all the way to the final talking point.

Senator D'AMATO. Is this a fair thing—again, in the interest of time, did Mr. Altman report that he was going to recuse himself at this meeting?

Ms. HANSON. It's my recollection that Mr. Altman read the last talking point.

Senator D'AMATO. I'm going through your—Did you indicate that you had recommended the recusal?

Ms. HANSON. He indicated that I recommended the recusal, and I added that the Secretary agreed.

Senator D'AMATO. OK. That's good. Did Mr. Nussbaum inquire, if Mr. Altman recuses himself, who would take over?

That's the meeting when Mr. Altman—or Mr. Nussbaum may have been somewhat agitated in the discussion about Ms. Kulka.

Ms. HANSON. Yes.

Senator D'AMATO. Mr. Nussbaum complains about Ms. Kulka being tough? I'm summarizing.

Ms. HANSON. He said that he had a prior experience with her when he was in private practice.

Senator D'AMATO. Mr. Nussbaum says that, even if Mr. Altman is not legally required to recuse himself, his continued involvement in the process would impose "discipline on the process and lead to a fairer result."

Ms. HANSON. What are you reading from?

Senator D'AMATO. I'm reading from your deposition. I'm trying to be helpful. Do you recall that?

Ms. HANSON. Would you read that again, please?

Senator D'AMATO. What did Mr. Nussbaum say about Ms. Kulka? Do you want to recall that? What else did he say?

Ms. HANSON. Mr. Nussbaum said that he wasn't saying she was a bad lawyer, but that she was tough. He asked Mr. Altman why he had to recuse himself, since no one appeared to think that it was legally or ethically required. He said that I had recommended it, and I said the Secretary had agreed.

Senator D'AMATO. Did you understand that Mr. Nussbaum was displeased with the prospect that Ms. Kulka would be the decision-maker if Mr. Altman recused himself?

Ms. HANSON. I wouldn't characterize it as displeased. I have said that Mr. Nussbaum was agitated.

Senator D'AMATO. Let me read, then, from your deposition. When you spoke to Mr. Eggleston, you said, "I recall Mr. Eggleston stated Bernie must have gone ballistic, and I said, yes, he laughed and laughed and that's all I recall." I mean, it's obvious, from your previous depositions, that Mr. Nussbaum was not happy with this. Is that true?

Ms. HANSON. That was—

Senator D'AMATO. Did you tell him to reconsider it?

Ms. HANSON. —from a different conversation. I don't recall that he asked him to reconsider. I think he presented his views, and Mr. Altman said he would think about them overnight.

Senator D'AMATO. On February 3 or 4, 1994, did you receive a call from the White House inquiring how Ms. Kulka was hired?

Ms. HANSON. I received a call from Mr. Nussbaum, which was a follow-up to the conversation of the prior evening.

Senator D'AMATO. OK. I see the red light is on. I'll yield and come back to this line of questioning.

The CHAIRMAN. Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman.

Ms. Hanson, I'm just going to use my last 7 minutes to go through a few things. In my mind, we've heard a lot of testimony today, from you and others, and I don't see that anything came of any of these contacts, but I find them extremely troubling despite your explanation. I really would pick up where Senator Roth left off. He said, "It seems to me, you're using as an excuse, if you will, press leaks to breach some confidentiality."

He further said, "If this was another case, would you do the same thing?" You said, "Yes, I might—that if I found out there was a leak on something else, I might do the same thing." I have to say this is very troubling to me, and I don't think that press stories should run the Government. I think you're much too valuable an asset to be running around worried about what the heck the press is going to say because, I'll tell you, you're never going to know what they're going to do, and if each of us did that, we'd never get a thing done. I really would hope the message you put out, that you didn't see anything wrong with it, would not hold in the future.

Ms. HANSON. May I respond to that?

Senator BOXER. Certainly.

Ms. HANSON. You said two things. One, that it appears people spend a lot of time dealing with press leaks and that's just, in my experience, not the case. These were very isolated incidents and did not involve very much time. The second statement you made was that it was some sort of breach of confidence. There is no law, rule, or regulation that prohibits two governmental employees from having a conversation—

Senator BOXER. Yes, I understand that.

Ms. HANSON. —that has a legitimate governmental purpose. It is not a breach of confidentiality. It happens. Lawyers and other governmental officials talk with each other about nonpublic, confidential information.

Senator BOXER. I'm sorry to cut you off, Ms. Hanson, I don't mean to be rude, but I have only 7 minutes and I've waited 3 hours. You've said this before, and I understand we disagree. That's OK. People can disagree. You and I, obviously, disagree on



whether it was a wise thing to do and that's what makes life go round. We don't always agree with each other. You might question my judgment, and I might question yours, and that's what this is all about. You say it was two people but, then, it turned into eight people. Who was at the meeting, Hanson, Steiner, DeVore, Nussbaum, Gearan, Lindsey, Sloan, Eggleston, and then, later, others called you about it? Obviously, it wasn't simply two people getting involved——

Ms. HANSON. No one called me about it, to my recollection.

Senator BOXER. I'm sorry, I thought——

Ms. HANSON. And I didn't set up that meeting. I was invited along.

Senator BOXER. Excuse me, I know that Mr. Podesta called over to the Treasury. I don't know if he spoke to you or not. He was concerned about the testimony.

Ms. HANSON. That was in February.

Senator BOXER. Right. Which brings me to another issue. I keep coming back to——

Ms. HANSON. Actually, it was—excuse me—in March. I'm sorry.

Senator BOXER. I keep coming back to it because it's very important. It was the February 24, 1994, testimony of Mr. Altman, you sat behind him, he was asked a question by Senator Gramm:

Senator GRAMM: Have you, or any member of your staff, had any communication with the President, First Lady, or any of their representatives, including their legal counsel, or any member of the White House staff, concerning Whitewater or Madison Savings?

He answers, "One meeting." He doesn't talk about recusal or about your contacts, and you don't correct him. You say you were desperate to get this transcript and, I guess, this is where—Mr. Chairman, wherever you are, this is where I just—you lose me on this one. I've been around a very long time. I've been in the House of Representatives for 10 years, I've been here for 2 years, I was on a Board of Supervisors for 6 years, and I've done other things in my life. You are a powerful person in a powerful office, and you couldn't get the transcript. The transcript was delivered. You don't know where it is. Did you pick up the phone and call Steve Harris to try to get the transcript?

Ms. HANSON. The answer is I did not do that personally. I asked, repeatedly, for the transcript.

Senator BOXER. If I just might say—I mean, this point troubles me greatly, because you knew how important it was, you, yourself, knew how important it was that Mr. Altman didn't give the whole truth to the Committee and, the fact is, you wanted to fix this problem up. A day goes by, 2 days goes by, count the weekends. Telling the truth to a Committee is important. This is about as important as it gets, in my opinion. Maybe it's because I happen to have been sitting there, but this goes to lots of other hearings we've held where Members of the other party were a little bit on the defensive. The fact, that we must know the truth, is a bipartisan issue for us here. You wanted to correct the testimony and your big excuse, that I hear coming back to me over and over again, is I couldn't get the transcript.

Ms. HANSON. There is no other way that I could correct the testimony. There were 4½ hours where——

Senator BOXER. You are missing my point. I agree that you need the transcript. What I cannot see—I'm putting myself in your shoes, the best I can, and I've been in a position of being in elected office, being a staffer for a Congressperson, being a press person, all kinds of things. If you want to get a transcript and, as the Chief Counsel of the Treasury, you can't figure out a way to get it, I just have a real terrible problem with that. If your personal secretary couldn't get it, or your assistant couldn't get it, I think you should have gotten a new one. I have a hard time coming to grips with that fact. So, I would just say this, I think, again, that the hour's late, you're under a lot of stress and strain and I—

Ms. HANSON. I will tell you, Senator Boxer, in the future I will always make sure I personally see to it, that I get the transcript, because that was clearly a problem here. As I stated—

Senator BOXER. You interrupted me in the middle of what I was trying to get to. My train of thought was that I know this has been very difficult for you, awfully difficult for you. I would just, respectfully, suggest, at your level of expertise, intelligence, you are articulate, you are educated, you have great experience, that I still have a hard time understanding why, when you knew Mr. Altman didn't tell the full truth, you didn't get in a cab and get the darn transcript, if it was that important to you—and it should have been that important to you. Mr. Chairman, I'm not going to keep on going in this fashion. You can see how I feel about it. I am not satisfied with the fact that we did not get the corrections, we should have gotten, in a timely fashion.

I'm sorry your lawyer told you not to be involved in it anymore, but I have a question about that, too, Mr. Chairman. Here is Mr. Altman, whose testimony was not complete, and now, all of a sudden, because of another situation, you're told to forget about it. You can't do anything about fixing up his testimony when you, and you alone, knew it. You went to the White House, you sat there with those folks, you wrote Mr. Altman a memo, although you didn't recall writing it, and you were the one who had the information. It's very odd to me, that your attorney would tell you, that you have no more responsibility to make sure that the Senate of the United States of America knows the whole truth.

It's really—maybe it's perception, maybe it's the way you view the world, but I have a—I feel a little uncomfortable about all this. I don't feel anything happened to injure the people of the United States of America by what you did, or didn't do, but I just do not approve of the way this matter was handled in terms of giving us the whole truth, and nothing but the truth. I also do not approve of using, as an excuse, press leaks to discuss very confidential information which I think only fed into the whole cycle of more press leaks and more stories.

The CHAIRMAN. Thank you, Senator Boxer.  
Senator Bond.

Ms. HANSON. Could I respond to that, please?

The CHAIRMAN. If you do it briefly, you know—go ahead.

Ms. HANSON. First, I disagree that this has been—there has been an investigation by the Independent Counsel. There's been an investigation by the Inspectors General and there has been no finding that this information, the information that was conveyed to the

White House on the criminal referrals on the press leaks, was used inappropriately by anybody, no one. In addition, I am sorry that if you—that you think I didn't handle this transcript, and these issues, appropriately. However, I had no expectation, no expectation the letter that was written on March 2, 1994, which was designed for a specific purpose, and the letter that was written on March 3, 1994, that was also designed for a specific purpose, was going to complete, or was intended to complete, the record. My attorneys gave me specific instructions when the Grand Jury subpoenas were served that since I was under, and the conduct was under, investigation—under a criminal investigation, that conversations between the participants involved could be misconstrued by the Independent Counsel. That was a view that was shared by other people who had received subpoenas. I am sorry that the transcript was not supplemented as I expected it to be, but I was not able to participate, and I did the best job I could do.

The CHAIRMAN. We have to leave this exchange at that point.

Senator Bond.

Senator BOND. Mr. Chairman, first, I want to say to the Senator from California that the very perceptive questions she asked were ones that have been bothering me.

I have been disturbed, I've listened all day, and I've read the statements, Ms. Hanson, about what happened to that simple little question I asked. You worked on and prepared, with Mr. Altman, an answer on March 2, 1994. That was, as I gathered from the statement, "I appreciate the opportunity to amend the record accordingly." You did not, in that March 2, 1994, letter, feel that you had to correct the major inadequacies in the answer to that question I asked Mr. Altman?

Ms. HANSON. I'm sorry, sir, I don't understand your question.

Senator BOND. You participated in writing the letter of March 2, 1994, that Mr. Altman sent to the Chairman. Is that correct?

Ms. HANSON. I read the letter of March 2, 1994, yes.

Senator BOND. You knew at the time, that when Mr. Altman answered the question I asked, it was not a full and truthful answer, did you not?

Ms. HANSON. I believed that Mr. Altman understood the question and responded to it, to the best of his recollection, with respect to RTC contacts.

Senator BOND. Are you trying to play lawyer with us, saying because you were in the Treasury, even though you were detailed to the RTC, that he was somehow using that technicality to say that, because you were operating at the direction of the CEO of the RTC but were employed by the Treasury, it didn't apply to you?

Ms. HANSON. I understood that I acted in my capacity as General Counsel to the Treasury. Again, as I have testified, I didn't recall at that point in time—as I sat here during the hearing, I had only a vague recollection of my conversation, and I did not know what Mr. Altman recalled. The letter of March 2, 1994, was designed, solely, to put the Committee on notice about the two additional meetings in the fall, that were going to appear in the newspaper article the following day. It was not intended to be a complete description of those contacts, or to supplement the record to make it

complete and thorough. So, no, sir, it was not intended to be a full description of those contacts.

Senator BOND. Ms. Hanson, it does say, "I would appreciate it if you would amend the record accordingly." When Mr. Altman called me that evening, on March 2, 1994, I was struck then, as I am struck in your answer now, that the thing that seems to drive you to correct the inaccuracies in the testimony to the Congress, was the fact that the truth was going to come out in the newspaper. I would hope there would be a somewhat greater responsibility that you would feel as an attorney, when you have information that makes you aware your client is clearly, actively, and demonstrably misleading Congress, to advise your client to correct the record, or at least indicate that there was a question which would have to be clarified later. I find that to be extremely troubling.

Ms. HANSON. Sir, I think you have mischaracterized what I have said and what I did. I have said that that letter was not intended to be a full response to your questions. That letter was sent, as a courtesy, so that the Committee would be aware of those two additional contacts before the article appeared in the paper. What was left still to be done, sir, was to review the whole transcript, and to respond to the questions that we understood were coming. We understood that there were going to be many of them. I fully expected that every single contact, between the RTC, the Treasury, and the White House, on these matters, was going to be fully and completely laid out.

However, as I've stated, I received a Grand Jury subpoena and I did not have an opportunity, even to read the transcript, until after the subpoena was served. What I expected to happen didn't happen, when the March 2, 1994, letter was done. During the course of that week I had no expectation that anything, other than what I thought was going to happen, which was a thorough, careful, orderly review of the record, and correction and completion in answering of questions, was going to occur. I really—and I am—I really resent your statement about my professionalism.

Senator BOND. Ms. Hanson, if there's anyone who has something to resent—I feel that you did not deal properly with us. Let me ask you, since you did ask specifically for, and looked at, the tape in which those questions were asked. There were two questions you said you focused on. You didn't need to wait for the transcript. You saw that on the tape. You were there in real life, you saw it on tape, and you still did not feel obliged to tell your client that he should correct his testimony. You didn't need the whole transcript, because the question was raised about the accuracy of the response to the question I addressed to Mr. Altman. You went back and looked at the tape, I believe we gathered from your earlier discussion, and you saw, then and there, did you not, that he misled us, that he did not—

Ms. HANSON. Sir, as I stated, we looked at the tape on March 1, 1994. Overnight, I created—I worked on those questions and answers and tried to get an understanding in my own mind. We put together a letter, which was not, in my mind, the letter that would have been put together if we had had more time, and we sent that letter in. By no—I did not expect that to be a full and complete re-

sponse to your question, sir. That's not what I understood that letter to be.

Senator BOND. It was inaccurate, because it did not state who made the contacts. There was never any follow-up effort. You are using the March 4, 1994, subpoena as a reason to walk away from, and leave unfulfilled, your obligation to correct the record. Is that a fair assessment? Is that your reason for not seeing that the record was corrected?

Ms. HANSON. Sir, no one asked—if there were supplemental questions answered, and if the responses to the record were reviewed, no one asked me for my input, nobody contacted me. I was under specific instruction, from my attorneys, not to talk with anyone about these matters. I understood that was the understanding of other people who had received the subpoenas as well. Consequently, I did not, because I was a recipient of a subpoena for a Grand Jury investigation.

Senator BOND. So you are now using the Grand Jury investigation to justify, number one, your failure to correct the statement made by your client, which you knew to be incorrect at the time, because back on December 21, 1993, you had prepared this draft that was torn out, had you not, referring to the September 29, 1993, meeting with—

Ms. HANSON. I'm sorry, sir, I don't know what you are talking about.

Senator BOND. You don't have this draft that was found, this Madison Guaranty chronology, you didn't prepare that on December 21, 1993?

Ms. HANSON. That was—I did prepare that draft chronology, yes, sir.

Senator BOND. In which you talked about the meeting with B. Nussbaum, J. Hanson, and Cliff Sloan in B. Nussbaum's office following the Waco prebrief. That was in that memo.

Ms. HANSON. Yes.

Senator BOND. You remembered it then, forgot it in February, and then, you remembered it later in February?

Ms. HANSON. No, sir. I remembered the meeting—I remembered that I had a conversation with Mr. Nussbaum. As I said, my original recollection was that it was by phone. I hadn't thought about it, seriously, for a very long time. The whole focus of the preparation for the hearing was on the civil investigation and the statute of limitations issues. We had not thought about the fall meetings. There was no intention to mislead anyone. It hadn't been thought about. That letter, the March 2, 1994, letter, was not intended, in my view, to be a full—it certainly wasn't a full response to your questions, because it didn't give any detail. That is not how I viewed the letter, sir.

Senator BOND. The March 2, 3, 11, and 21, 1994, letters were still inadequate. Did you see any of those letters?

Ms. HANSON. I saw the March 3, 1994, letter. I did not see the other two until the Grand Jury, until at some point—

Senator BOND. Mr. Chairman, I see my time is out.

The CHAIRMAN. Senator Moseley-Braun is next, and when I come across Mr. Bennett has one item that he wants to raise. I think that will conclude Senator Bennett's situation.

Senator Moseley-Braun.

Senator MOSELEY-BRAUN. Thank you very much, Mr. Chairman.

Ms. Hanson, everybody's very tired and, quite frankly, I was more than taken aback to your answers to Senator Boxer's questions. I would suggest to you that part of the problem, and part of what Senator Boxer was getting at, is the notion that with regard to the things you were hired to do by Treasury as its Counsel, you failed to follow through with some of those things, specifically, the transcript correction. We have a situation in which testimony given on February 24, 1994, was corrected on March 2, 1994, was corrected, again, on March 3, 1994, and after March 4, 1994, you weren't involved, but it was corrected two more times thereafter. That is something that fell directly under your responsibility. Senator Boxer was concerned about that.

The thing I find as troubling, with regard to the failure to follow through on the things you were hired to do, is with regard to the things you weren't, really, hired to do, the RTC matters. You seemed to have been running around being involved with those matters as well. I refer you, specifically, to the September 29, 1993, October 14, 1993, and February 2, 1994, meetings with Mr. Nussbaum around civil statutes and the RTC criminal referral actions.

You said, earlier, that you had the authority to undertake this activity regarding the RTC, and we've gone back and forth with regard to where that authority comes from. I'm not going to dispute whether you had—whether a fair reading of any of the RTC statutes would have given you that authority or not. That is not my question at all. I'm prepared to concede that, under a reading of the statutes having to do with the RTC, you could have been loaned out from Treasury to do RTC matters.

My question to you, though, is when did you make the analysis regarding your authority to work on RTC matters? Was that something that was done in front of the process? That is to say, did you attend all these meetings and do all these things having to do with the RTC after you found out you actually had statutory authority to do so, or did you find out about these statutes and the permission, if you will, that they might have granted, after these activities took place? When, if you can tell us, specifically, did you ascertain that you had the authority to be involved with RTC matters?

Ms. HANSON. I can't ascertain it for you specifically. Throughout this period of time I was working with attorneys, Counsel for the oversight board, staff—career staff in the Treasury, who helped write FIRREA, and Counsel for the RTC. I felt—I always felt, and I continued to feel, that I had ample authority for everything that I was doing. The attorneys in the Treasury, as I say, also oversight board and RTC attorneys, knew what I was doing and none of them raised an issue about authority. Those attorneys, to my experience—in my experience, have no problem raising an issue if they think that there is a legal authority problem.

Senator MOSELEY-BRAUN. I won't get into whether it was raised or not, because I think, in some of the testimony, it was raised that you did not have the authority to—when you specifically requested to see the criminal referrals, you were refused that information.

Ms. HANSON. I never, ever, requested to see the criminal referrals. I've never seen them. I never requested to see them.

Senator MOSELEY-BRAUN. I guess my question to you is, assuming that you—you assumed that you had this authority. I want to pick up where Senator Roth left off. Senator Roth raised the question, and I would raise the question of you as well, did it never occur to you, or to anyone in these involvements, that the lines between your role at Treasury and your role at the RTC, that those lines might give rise to an ethical dilemma for you?

Ms. HANSON. No, and it didn't happen. It didn't happen. There was no ethical dilemma in doing the work that I did. I was asked by my superior to do it, and I did it. He had plenty of statutory authority to ask it and, also, to grant it.

Senator MOSELEY-BRAUN. Then let me ask you one final question. Ms. Hanson, if you had all this to do over again, what parts, if any, would you do differently now?

Ms. HANSON. If I could, just to correct—to make sure that my testimony is perfectly clear on the criminal referrals, I did have a conversation with Mr. Roelle, at one point, about the criminal referrals, because it had been suggested that I might read them. I told Mr. Roelle that it had been suggested that I read them, and he said, "Jean, you don't want to do that," and I said, "You're right, I don't want to do that," just so the record is completely clear.

I'm sorry, your question, again, is if I had it to do over, what would I do differently? I would make sure that I got a transcript. I don't think I would do anything else differently.

Senator MOSELEY-BRAUN. Thank you. No further questions.

The CHAIRMAN. Senator Bond.

Senator BOND. Just to finish up very quickly. Ms. Hanson, you have referred to the OGE report that makes it clear that divulging nonpublic information can be prohibited, even sharing it Government official to Government official, unless it's advancing a legitimate Government interest. You claim that preparing for the press inquiry is a legitimate Government interest, but even the OGE has said, and as we have gone over today, confirming a press leak can have disastrous consequences. For example, today, even though Mr. Roelle refused to comment and give official sanction to what was in the criminal referral, you, in fact, gave us the first confirmation that the Clintons were named as witnesses——

Ms. HANSON. That's not true, sir.

Senator BOND. That is the first I've heard a Government official state that. I'll be happy to have you——

Ms. HANSON. That is not true, sir.

Senator BOND. I would be happy to have you tell us what other Government officials have confirmed it, but I would conclude my point by saying, the one thing that is prohibited is to advance a purely private interest. In my view, there is no more purely private interest than to give someone, whether Government official or not, a 30-day heads-up on a criminal referral which offers the opportunity to destroy documents, talk to other parties, and to get the stories straight.

Ms. HANSON. With respect to the private interest, sir, that was something that the Office of Government Ethics looked into. They concluded that there was no violation of the ethics rules because it was not for a personal benefit. There was—the OGE concluded

that there was a legitimate governmental purpose. I'm sorry, sir, could you please repeat your first question.

Senator BOND. You said yours was not the first public confirmation, by a governmental official, that the Clintons were named as witnesses in the criminal referral. Please provide me the information because I must have missed it.

Ms. HANSON. The information is included in Mr. Sloan's notes that were released yesterday by the Inspector General and have also been released by Congress.

Senator BOND. Mr. Sloan is an official in the White House, not an official in the investigating agency. Is that correct?

Ms. HANSON. I'm not an official in the investigating agency, sir.

Senator BOND. You certainly acted like it. You were designated, and you worked, under the direction of the CEO.

The CHAIRMAN. Are you finished?

Senator BOND. I'm finished, thank you.

The CHAIRMAN. Senator Bennett, you had an item.

Senator BENNETT. Thank you.

I normally wouldn't stick around for this, but I plan to use it in conversation with Mr. Altman. It comes out of your deposition, so I think it's appropriate that I give you a chance to comment on it before I start quoting it. It is prompted by a statement you made earlier, I've forgotten to whom—it's all beginning to blur together, as I'm sure it is for you—that there was no pressure, of any kind, brought on Mr. Altman as a result of his meeting at the White House. I have trouble with the statement that there was no pressure on Mr. Altman. Let me read to you portions of your deposition that, in my view, demonstrate there was pressure and, then, let you talk about it. That's the point I want to get done tonight.

You say, "I recall Mr. Nussbaum"—this is at the meeting at the White House in Mr. McLarty's office. Mr. McLarty is not there, but there's a meeting in his office. "I recall Mr. Nussbaum asking Mr. Altman why he had to do this"—that is, recuse himself—"and I recall Mr. Altman stating that I had"—I, Jean Hanson, General Counsel of the Treasury—"had recommended that he recuse himself, and I stated that Secretary Bentsen had agreed with the recommendation. I recall Mr. Altman saying that it didn't matter, that he held Ellen Kulka in very high regard and had confidence in her, and that any recommendation she brought to him, on this matter, he would certainly follow, so it didn't make any difference if he were involved or not."

Then you say, "I recall Mr. Ickes saying that if Mr. Altman were going to recuse himself, he thought he should, he should do it"—he, being Mr. Altman—"thought he should do it sooner rather than doing it later." Here is the key sentence. "I recall Mr. Nussbaum saying that he thought, if Mr. Altman did not recuse himself, it would impose discipline on the process to obtain a fairer result." I'll come back to that, but to finish my overall point, you are asked what the tenor of the meeting is, whether it's a business meeting, and so on. You say it was a business meeting, but Mr. Nussbaum got excited and through the questions, which I won't prolong, he got excited when Mr. Altman said he planned to recuse himself.

Then, here is the capstone, in my view. "The following morning, Mr. Altman called me. He said he had spoken with Mr. McLarty



the prior evening." So we have Mr. Nussbaum saying you should not recuse yourself, because it will impose discipline on the process and produce a fairer result, "fairer" implying, in my view, different than you would get if it was left to Ms. Kulka. "Mr. McLarty, the prior evening—Mr. McLarty had wanted to know what had taken place in the evening." Mr. McLarty didn't attend the meeting. "He also said that he had had a couple of other calls"—and I will ask Mr. Altman from whom the other calls came—"and that he had decided he would not recuse himself for the time being. He said he didn't believe that it made any difference to the outcome, but that it made them happy."

You are asked, elsewhere, who is them? You say, "The people at the White House represents them." Then, on another occasion in your testimony, when Mr. Altman is telling Mr. Nussbaum that he is going to testify and state in his testimony that, because of the Vacancy Act, he would have no participation, you say, "I called Mr. Nussbaum, in accordance with Mr. Altman's request, and gave him that information." And what did Mr. Nussbaum say, "I recall Mr. Nussbaum saying he's going to leave us with Ellen Kulka."

It seems to me that this is pressure. In the language we've been using—no harm, no foul—Mr. Nussbaum was not successful in seeing to it that Ellen Kulka was kept out of it. Ellen Kulka will make the final decision. We will all stipulate that it will be fair, but I would like to give you the opportunity to talk about these words that, to me, demonstrate an attempt, unsuccessful—no harm, no foul—but an attempt to place someone in the position of making the final decision that, at least in Mr. Nussbaum's perception, would, to quote the term you have used, "impose discipline on the process" and to quote, again, your term, "obtain a fairer result." I'd love your comments on that because, as I say, I intend to discuss that with Mr. Altman at some length.

Ms. HANSON. I've heard Mr. Nussbaum's testimony on his views on recusal. I understand what those views are. He states he believes that, unless there is a mandated recusal, people should serve. I understood, when Mr. Nussbaum made the comment, in my words, about discipline—having a discipline process—and I recall that I said, would produce a fair result—

Senator BENNETT. Are you saying this deposition should be corrected to say "fair," not "fairer"?

Ms. HANSON. Yes, as I say, I have not had an opportunity to read my deposition, but that's what I understood. It would produce a fair result, which meant that if someone of Mr. Altman's stature were overseeing the process, and people knew they would have to report to him, they would accomplish their work in a professional, thorough manner so the result would be fair. I didn't understand Mr. Nussbaum to be asking for any preferable treatment or for any outcome that was other than fair. Mr. Nussbaum is an advocate and he advocated his position, but the final decision was Mr. Altman's. When Mr. Altman called me on February 3, 1994, and said that he had decided not to recuse himself, for the time being, and that he thought it didn't make any difference to the outcome, but it made them happy, I agreed with him. I didn't believe it made any difference to the outcome either, because Ms. Kulka was

in charge of the investigation, she was going to make the recommendation, and I believed that he would follow it.

Senator BENNETT. I shan't prolong this because, as I say, it's really an issue to discuss with Mr. Altman, but I wanted to give you the opportunity to talk on it. I will make the comment that I think Mr. Nussbaum is on thin ice here, to be leaning on a man who has walked in and said, "I plan to recuse myself, my General Counsel has told me to recuse myself, my immediate superior, who is a Cabinet-level officer, has agreed that I should recuse myself"—for a member of the White House staff to say, "No, you should stay where you are, because I want a fair result," is, in my view, an improper thing for a member of the White House staff to do, but that is something I will pursue with Mr. Altman.

Ms. HANSON. Just to be clear, I have no recollection of Mr. Nussbaum telling Mr. Altman he had to do one thing, as opposed to another. He expressed his views and—

Senator BENNETT. He apparently got excited.

Ms. HANSON. He's an excitable person.

The CHAIRMAN. It sounds to me like—if I may, a while back I said I was going to take a minute here—he certainly got his point across. By all the testimony we have, Mr. Altman went in prepared to recuse himself. He got turned around, came out, and decided not to recuse himself. I want to ask you this. Do you know when the moment came when he made the decision to recuse himself and to whom he said that?

Ms. HANSON. I don't recall the exact moment.

The CHAIRMAN. I've read—and I don't know whether it's true or not, so I'm asking if you can confirm it—the story that he made the decision, or announced the decision, in a discussion with somebody on the editorial board of The New York Times. Do you know whether that's true or not?

Ms. HANSON. I don't know, sir.

The CHAIRMAN. You've not heard that?

Ms. HANSON. I have heard that, but I don't know whether it's true.

The CHAIRMAN. But you don't know when the—when did you hear about the decision?

Ms. HANSON. The final decision to, actually, recuse himself? Mr. Altman's decision to finally recuse himself, was after the hearing on—the day after the hearing, on February 25, 1994. Let me make sure that we're clear. He had made—he had decided to recuse himself on February 1, 1994. He, actually, recused himself on February 25, 1994.

The CHAIRMAN. You don't know the circumstances under which that was done, beyond what you've just said?

Ms. HANSON. No, I don't.

The CHAIRMAN. I have time remaining, Senator Sarbanes, you wanted—

Senator SARBANES. I just have one or two brief questions I want to put to Ms. Hanson.

Just today, Deputy Secretary Altman appeared in an interview with Bernard Shaw on CNN. Mr. Shaw asked him, "Mr. Secretary, the General Counsel of the Treasury Department, Jean Hanson, says that she went to the White House and briefed White House

Counsel, Bernard Nussbaum, in September. She says you, her boss, told her to do it." Mr. Altman answered, "Well, as you know, I have a different recollection of that. I don't think there is anything unusual about that." Mr. Shaw asked, "You did not tell her to do it?" Mr. Altman answered, "I don't think there is anything unusual about that. The events in question occurred 5 months before the testimony. So having different recollections, I don't think, is very surprising."

So Mr. Altman, even today, holds the position that he did not tell you to go to see Mr. Nussbaum. The reason I put this question to you, is that Mr. Altman's version is consistent with the questions and answers—the draft questions and answers which you put into your computer on, I think, March 1, 1994, as I recall, which said:

*Question:* Who in Treasury or the RTC knew that you had this conversation?

*Answer:* I don't recall that I told anyone of the conversation.

*Question:* Did you tell Mr. Altman?

*Answer:* No.

*Question:* Did anyone ask you to have this conversation?

*Answer:* No.

I, again, put to you this very basic question about how you got to see Mr. Nussbaum. Was it on your own, or at Mr. Altman's instruction?

Ms. HANSON. Sir, I have thought about this very carefully, over a period of time, and I firmly recall having a conversation with Mr. Altman, on the subject, and being given the responsibility to talk with Mr. Nussbaum, as I've stated. I have testified, now, under oath.

Senator DODD. Could I just—one second. I heard you respond to this question maybe 10 times in the last 12 hours, and maybe my ears have picked it up. I heard you use the word "authorized" or the phrase "given the responsibility," but the Senator from Maryland asked the question differently. I mean, the question is whether you, on your own initiative, saw Mr. Nussbaum, or whether or not you were directed by Mr. Altman to see Mr. Nussbaum? Do you understand what I'm saying? The question is whether or not you had authorization to do it, or whether you were directed to do it?

Ms. HANSON. I understood that I had the responsibility for telling Mr. Nussbaum. Now I don't.

Senator DODD. Is that implied by the statute that you talked about earlier, or did Mr. Altman say to you, "Jean, I want you to go see Mr. Nussbaum at the White House and tell him what's going on here"?

Ms. HANSON. I don't recall the exact words of the conversation—

Senator DODD. I understand that.

Ms. HANSON. —but I recall the substance of the conversation, and the substance of the conversation was that I should tell this information to Mr. Nussbaum because it was going to leak to the press. You can call it tasked, or given responsibility.

Senator DODD. I apologize, Senator.

The CHAIRMAN. If you'll permit me. Do you happen to remember where that happened? Do you have a scene in mind?

Ms. HANSON. It was in Mr. Altman's office, right after I spoke with Mr. Roelle.

The CHAIRMAN. So you can place it, you have a picture in your mind as to where you were when this was said to you?

Ms. HANSON. Yes, sir, I do. As I say, I recall that Mr. Altman had a file he asked his secretary to bring, a file which she brought in and out of which he took a copy of an RTC—actually, I had forgotten that it was an RTC clip sheet, but he took out an article that had appeared in The New York Times. He had a copy made and gave it to me which, as I've stated, Mr. Nussbaum, in his testimony, has said that, in my initial conversation with him, I told him Mr.—I understood that Mr. Altman had sent him, had already, previously, given him information about this. That's not information I would have had, that piece of information that Mr. Altman had previously given him information, without having talked with Mr. Altman in anticipation of going to talk with Mr. Nussbaum. That's just, as I say, that's just a statement that I've learned of recently.

The CHAIRMAN. Was what he gave you out of his folder, then, a copy of the same thing he'd sent over to the White House earlier?

Ms. HANSON. Yes, sir.

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Let me be sure I've got this right, because this is going to be important tomorrow. He gave you that article, which you did not have nor did you have access to, in his office when he told you to contact Mr. Nussbaum?

Ms. HANSON. I don't recall, sir, if it was in that same conversation or in a subsequent conversation. I recall, though, if you look at Mr. Sloan's notes, the first thing it says is "Altman's files, NYT 3/2/92, Altman thinks"——

Senator DODD. Just one second. Maybe it's the hour, but I just heard you say, in response to Senator Sarbanes' or Senator Riegle's question, that you recalled the meeting because you had an article, because the Secretary was in the room. In response to Senator Gramm, you're saying you can't recall, whether or not, you were given the article or the memo at that particular meeting?

Ms. HANSON. I think, maybe, we're all getting tired, because I thought I just heard you say something about the Secretary being in the room. Let me make clear—let me do this again.

I recall, specifically, having a conversation with Mr. Altman, in his office, shortly after I had the telephone conversation with Mr. Roelle. I recall discussing it with him, and I recall the substance of the conversation to be that I should tell Mr. Nussbaum about the press leaks, the imminent press leaks.

I also recall, and I have always recalled, and my testimony on this has always been the same, that either in that meeting, or in another meeting around—close in time, Mr. Altman called in his secretary and asked her to bring him a file, which—in which he had The New York Times article that he gave me. He had a copy made and he gave it to me. It was around that time. I have not recalled whether it was in that exact meeting, or in a subsequent meeting shortly after that.

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Thank you, Mr. Chairman.

So it's even possible, Ms. Hanson, that you talked to Mr. Altman twice about it. You might have gotten the directive to call the of-

fice, and you might have gotten the article at another meeting on the same subject?

Ms. HANSON. That's correct, sir.

Senator GRAMM. You made the point, the strongest point you've made here tonight, that it would be, for all practical purposes, impossible that you would have contacted Mr. Nussbaum, on this subject, without a clear and direct directive or order. I've sat here ever since you've been here, and that's been the strongest point you've made. The point is that it would have been inconceivable for you to have contacted Mr. Nussbaum without a straight directive or order from Mr. Altman. That's correct, isn't it?

Ms. HANSON. That is correct. I would not have contacted Mr. Nussbaum.

Senator GRAMM. Would you say it is also correct that Mr. Altman would have known that you would not?

Ms. HANSON. I'm sorry?

Senator GRAMM. Would you say it is also true that Mr. Altman would have known, or would have known then, that you would not have made that contact without his approval?

Ms. HANSON. I don't know the answer to that question, sir. If you could rephrase the question.

Senator GRAMM. You worked with Mr. Altman. You worked for him. Right?

Ms. HANSON. Yes.

Senator GRAMM. Would you believe that he would think that you would contact Mr. Nussbaum, about a criminal investigation that involved the President of the United States, without him telling you to do it?

Ms. HANSON. You'll have to ask him that question, sir.

Senator GRAMM. You don't have an opinion, one way or another?

Ms. HANSON. No, sir, I don't.

Senator GRAMM. I want to go back to the letter of March 2, 1994. I have a total of five questions, and I'll try to get through them as quickly as I can. You have said, several times here, that this letter of March 2, 1994, a letter that, as Counsel, you were involved in, was sent for one, and only one, purpose. That purpose was, in essence, to give the Committee a heads-up that there was about to be a media story about these two meetings. Is that right?

Ms. HANSON. That was my understanding of what the purpose of that letter was.

Senator GRAMM. So Mr. Altman wrote us the letter simply to tell us something he knew we were going to hear about the next day in the paper?

Ms. HANSON. As I stated, it was not intended to correct the record or to be a full answer to your question.

Senator GRAMM. Was he telling us, as a courtesy, so we would know when we read it in the paper the next day?

Ms. HANSON. It was my understanding the timing of the sending of that letter was a result of the article that was going to appear in the paper. However, as I stated, the expectation was that there would be a full review—

Senator GRAMM. Let me go back to this point. Was he telling us, as a courtesy, so that we would know what the facts were when the article came out, or was he writing this letter, solely, to protect

himself so that he would have told us prior to the article coming out the next day?

Ms. HANSON. I think you'll have to ask him that question, sir.

Senator GRAMM. You here say, that in this letter, there was no reason for him, in essence, to tell any more, that this was a special purpose letter, and that, because he was going to write us another letter, he was under no obligation in this letter to give us the truth, the whole truth—you know the line better than I do.

Ms. HANSON. I can't say what was in Mr. Altman's mind, at that time, about that letter. I have testified as to how I viewed the letter and what I understood the letter to be.

Senator GRAMM. In your mind, because you were going to do another letter later, you thought that this was an adequate, acceptable response to give?

Ms. HANSON. With respect to putting the Committee on notice of the two fall meetings—but, again, sir, it was not intended to fully answer the questions or to be a complete supplement, by any means, to the transcript.

Senator GRAMM. Ma'am, let me just read you what this says. I don't understand this whole logic. Let me just read you this, give you the answer, and then, pose a couple of quick questions.

With regard to the second paragraph of the letter, the situation is that you've been asked, "Were there any other communications between the RTC and the White House?" and that Mr. Altman says, in the letter in which he had answered, "Not to my knowledge." Forget the fact that we know—and I could give you 20 or more examples where—that's not true. Just forget that. Then, this letter comes down and says, "I have learned, today, of two conversations which did take place between Treasury staff and White House personnel on this matter."

Ms. Hanson, you have answered questions, in the last hour, in which you said that you, not just anybody that worked for the Treasury, but you, had conversations with the White House on February 3, 1994, February 4, 1994, February 8, 1994, and two conversations with two different people on February 23, 1994. In fact, three different people on February 23, 1994, one day before the testimony.

When you read this letter, when you had, personally, had one, two, three, four, five, six communications yourself, as a member of the Treasury Department, didn't you think about it and say, "Mr. Altman, you write here that you said at the Committee you had no knowledge of any communications between Treasury staff and the White House, but that you have learned about two"? Did you think about saying, "Mr. Altman, I have, personally, myself, had a minimum of six communications, and three of them were the day before you testified"? I don't understand why—when you read this letter, why you didn't say to him, "Mr. Altman, this is clearly not true."

Ms. HANSON. This letter was intended to respond to Senator Bond's question that asked how the White House was notified of the referrals, because the first conversation that he refers to, of the two conversations, was my conversation with Mr. Nussbaum. This was not intended to answer—in fact, at the time this letter was written, I hadn't even—the only questions that I had before me

were the two questions of Senator Bond as to how the White House had been notified.

Senator GRAMM. To try to save time, and not to be impolite, when Senator Bond asked him, at the hearing, whether any other conversations had taken place, he answers, "Not to my knowledge." Then, he writes in this letter that he's learned, today, of two conversations. My point is, you yourself, by testimony you've given today, have told us that you were involved in one, two, three, four, five, six conversations, three of them the day before he testified. How could you not say, "Mr. Altman, this letter is verifiably false"? I can't conceive—it's almost as if, Ms. Hanson, you can compartmentalize, in your mind, this question, and limit it down to just what Mr. Altman wants to say, and that he is saying he is giving a limited response when he says he would appreciate the ability, through this letter, to amend the record.

Ms. HANSON. Sir, as I have stated, this letter was drafted very quickly, late in the day, on March 2, 1994, by Mr. Altman. This letter was only intended to respond to the Senator Bond question of how the White House was notified. This was not intended to be an answer to the other question that we've discussed here, relating to all contacts.

Senator GRAMM. That's not what it says. Did you believe this was true when you read it?

Ms. HANSON. What I understood and, frankly, I will tell you, what I particularly focused on, is the sentence describing the conversations, but I understood this letter to only be responding to the Senator Bond inquiry as to how the White House was notified of criminal referrals. That's how I understood this letter. Again, as I say, my understanding, and my intention, was that there was going to be a full review of the record. The questions were going to be received, every single question would be answered, and all these conversations would be described in detail. That's not what this letter was and that's not what I understood it to be.

Senator GRAMM. You meant, here, to tell us only about what was going to be in the paper the next day and, therefore, the fact that it was incomplete, the fact that it was invalid, was OK, because it was later going to be supplemented. Is that—

Ms. HANSON. That's not what I've said. I'm saying—I have said, at that time, I still didn't have the transcript before me. I still hadn't seen the question that you asked. I hadn't seen it.

Senator GRAMM. You had watched this on tape. You had watched the—

Ms. HANSON. I watched the—only the Senator Bond questions on the tape. That's all that I watched of the tape. That's all that I watched of the tape, that's what this letter was designed to do, and that's what I understood of it.

Senator GRAMM. Mr. Chairman, I want to say for the record, it's very interesting that when Mr. Podesta put in the file at the White House the transcript of the February 24, 1994, hearing, he didn't get it from us, he pulled it off of the Federal News Service. That Federal News Service is available in any Federal office. It's tied into their computer.

The CHAIRMAN. Senator Gramm, your time is up. I'm going to give you another round, if you need it, but Senator D'Amato had a couple of questions.

Senator GRAMM. If I could, I'd like to go ahead and get finished if that's all right.

Senator D'AMATO. Go ahead.

Ms. HANSON. Could we take a brief break, sir?

The CHAIRMAN. Sure.

[Recess.]

Senator SARBANES. Ms. Hanson, are you ready to resume? I think Senator Gramm said he had a couple more questions he wanted to put, and then I think he will have concluded.

Ms. HANSON. If I could, before Senator Gramm begins, I would like to make clear, for the record, this March 2, 1994, letter. This letter, to my knowledge, was—and to my state of recollection, was correct, was accurate at the time that it was written. The paragraph says, "When Senator Bond asked me, at that hearing, whether any other communications had taken place between the RTC and the White House, my response was not to my knowledge." I still have no knowledge that any such discussions occurred, and that was correct. That is correct, to my knowledge.

The CHAIRMAN. Wait a second. Let me just stop you there, because this goes right to this dilemma of you being two people at once. I mean, you're the Treasury Counsel, but you're carrying this RTC load at the behest of Mr. Altman. He detailed you to do RTC activities, so when you go over to the White House, you don't go over as 100 percent of Treasury and 0 percent of the RTC. You go over as a mixture of both, so when the point is made that there's no RTC contact, that, then, makes a reference to you in a context that's not accurate. Do you see the point?

Ms. HANSON. I understand that point, sir, but this goes on to say, "But I have learned, today, of two conversations which did take place between Treasury staff and White House personnel on this matter."

That was intended to answer Senator Bond's question of how the White House was notified of the referral, so, whether I was there in an RTC capacity or a Treasury capacity, that question was answered, and was intended to be answered, in this letter.

As I've stated, it was not the intention of this letter, and I didn't understand this letter, to be trying to be a full description of every conversation that had taken place, which was the question that had to be answered asked by Senator Gramm. That's not what this letter was intended to do, but it was accurate, to my knowledge and to my state of recollection, when it was written.

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Mr. Chairman, I would go back and make the same point 100 times, but I think the point has been made, and I'll just leave it to impartial observers.

Had there been no threat of a press leak concerning the RTC referral, would it have been ethical for you, Ms. Hanson, to have told Mr. Nussbaum about a referral that related to the First Family?

Ms. HANSON. It's my understanding—I understand the ethics rules to require a legitimate governmental purpose.



Senator GRAMM. Let me go back and ask my question again. Had you not been told by somebody that there might be a press leak, had you never received that communication, quite aside from evaluating its accuracy, but if you had never received it, would it have been a violation, a breach of ethics, for you to have told Mr. Nussbaum, who was the General Counsel to the President, that there are nine criminal referrals and that at least some of them referred to the President and the First Lady? Would that have been a breach of ethics?

Ms. HANSON. Sir, it would have depended on the facts that existed. The fact of the matter is, there were imminent press leaks, and that was the governmental—there has to be a legitimate governmental purpose, and that was the governmental purpose. So, if the question is, if there is no governmental purpose, would it be a violation of ethics? There has to be a proper governmental purpose.

Senator GRAMM. You are the General Counsel of the Treasury Department of the United States of America. I'm asking you, in that capacity, had there been no rumor of a press leak, would it have been unethical for you to have told Mr. Nussbaum, who is the General Counsel to the President, and is an employee of a person who was referred to in those nine criminal referrals, would that have been a breach of ethics? Could I get you to say yes or no?

Ms. HANSON. It depends on whatever other facts existed. In this particular case, there were press leaks.

Senator GRAMM. I'm asking you, as the Legal Counsel of the Treasury Department, a matter of policy concerning ethics, and you're supposed to be an overseer of this activity. Had there been no rumor of a press leak?

Ms. HANSON. If there had been no rumor of a press leak, sir, I would not have had this conversation.

Senator GRAMM. I didn't ask you that. Would it be ethical?

Ms. HANSON. If there was not a legitimate governmental purpose, it would not have been ethical.

Senator GRAMM. Can I go back and change my question? Had there been no rumor of a press release or press leak, would it have been ethical to have told the counsel to a person who was referred to in at least one of the nine criminal referrals?

Ms. HANSON. We may be just talking past each other here, sir, and it is very late and I don't mean to be argumentative. What I'm saying, is that you can communicate that information if you have a legitimate governmental purpose. Press leaks, and dealing with the fallout from press leaks, is a legitimate governmental purpose.

Senator GRAMM. If everything else had been the same—

Ms. HANSON. If everything else was the same, and there had been no press leaks, I wouldn't have done it—

Senator GRAMM. I'm not asking would you have done it. Would it have been ethical, in your opinion—

Ms. HANSON. I don't believe so.

Senator DODD. Could you yield for just one second?

The CHAIRMAN. "I don't believe so" is your answer, though?

Ms. HANSON. I don't believe so.

Senator DODD. Just on that point, and I just read this the other night. It may be interesting, and I'll ask with unanimous consent, Mr. Chairman, to include this in the record. The facts are substan-

tially different than the facts before us here, but there was a Subcommittee investigation by the Judiciary Committee in 1990, as between Benjamin Civiletti's communication to then-President Carter about his brother and the possibility of some dealings with Libya and the like. The communication was directly to the President, and the Subcommittee then, and this was a different matter, I admit, but the Subcommittee then concluded that it would not have been improper for the Attorney General to advise the President of significant information received by the Department of Justice, in this case, about Billy Carter's activities. As pointed out below, the President should receive significant information, relative to the constitution, of the exercise of his responsibilities, in this respect to foreign affairs, because it involved Libya and law enforcement. There may be other facts that would warrant—the point I'm making—I understand your point and—

Senator GRAMM. This is not foreign policy, Chris.

Senator DODD. There are facts which could warrant a communication. I think that's the point.

Senator GRAMM. I'm just going to assert, based on what you have said, that it would—if everything else had been identical, except this rumor of a press leak—it would have been unethical for you to have passed on the information.

Ms. HANSON. That's not what—all things being—if there was no governmental purpose, it would not have been appropriate or proper. There was a governmental purpose here, and the Office of Government Ethics has so concluded.

Senator GRAMM. How do you delineate here—it's unethical to tell someone who represents someone who is mentioned in nine criminal referrals. That's a violation of Government ethics. In fact, we've had a couple of people who read the actual ethics standards, but yet, if you have heard that it might be leaked to the media, it's OK.

Do you really believe that there is a justification for giving someone information about a criminal referral because you have heard that it might be leaked to the media? You've never seen it in the media. You've never talked to anybody from the media. You're not the Press Secretary. You didn't claim, here, you had talked to anybody in the media, or with any newspaper, that's going to publish it. You had heard that someone else had talked to somebody in the media and, therefore, it made it OK for you to call the General Counsel to the President of the United States and tell him that his boss was mentioned in nine criminal referrals?

Do you really believe that makes it OK?

Ms. HANSON. I don't believe I said he was mentioned in nine criminal referrals. Sir, I had this information from a very good source and someone—

Senator GRAMM. Could you tell us what the source was?

Ms. HANSON. I understood, from Mr. Roelle, that these referrals were going to be leaked to the press as soon as they arrived in Washington.

Senator GRAMM. And he knew this, based on past experience?

Ms. HANSON. I don't know what the basis was, although, as I've stated, the IG chronology that was released to the public yesterday, indicates that Mr. Dudine was aware on September 23, 1993, that a reporter was getting close to something about these very criminal

referrals. I suspect, based on this, Mr. Roelle had information that led him to reach that conclusion that was more than just speculation and, in fact, he was right, because they were leaked to the press, and very, very possibly before I talked with Mr. Nussbaum, because it was confirmed the following day.

The CHAIRMAN. Let me interrupt, your time is up. I think we've gotten as far as we're going to get on that exchange. You've both made your points, they're there, and they've been restated.

Senator D'Amato.

Senator D'AMATO. Let me, if I might, take you to the afternoon of February 3, 1994, when you were at lunch, and the beeper went off. Would you try to recount what took place?

Ms. HANSON. I was at lunch. My beeper went off twice. The second time it went off, I went to the front of the restaurant. There was a call waiting for me. It was my secretary, who said that Mr. Altman had called, or his office had called, to say that there was a meeting that was going to take place at the White House right then, that I needed to come back immediately, and that Mr. Altman was waiting for me.

I paid my bill, expressed my regrets to my luncheon companion, and went back to the Treasury. He was gone. I was told I was to meet him in Maggie Williams' office. I went, and when I arrived in Ms. Williams' office, Mr. Eggleston, Mr. Ickes, and Ms. Williams were all there. They were all standing up and I was told that Mr. Altman had just left.

Senator D'AMATO. Did you have a conversation with any of the people there, then?

Ms. HANSON. I did. Of what I recall of it, Mr. Ickes asked me who knew I had recommended to Mr. Altman that he recuse himself, and I recall giving him three names. He said, "Good, because if it got out, it would look bad."

Senator D'AMATO. What did you reply to him?

Ms. HANSON. I told him it was what I would have done if I were in his position. Mr. Ickes said, "It would be better if it didn't get out," and I said, "If I'm asked, that's what I will say."

Senator D'AMATO. Ms. Hanson, you said, "That's what I would do if I were in his position." You're referring to Mr. Altman's recusal?

Ms. HANSON. That's correct. He was not required to recuse himself. It was a personal decision.

Senator D'AMATO. I just want to set the record straight. Did you have any further meetings with Secretary Bentsen after the February 3, 1994, meeting at the White House?

Ms. HANSON. We did meet. Mr. Altman and I met with the Secretary and—

Senator D'AMATO. Do you recall how many occasions?

Ms. HANSON. On this issue?

Senator D'AMATO. Yes.

Ms. HANSON. On two other occasions.

Senator D'AMATO. Could you give us the nature of those meetings and who was there?

Ms. HANSON. In the first meeting, Mr. Altman and I were there. Mr. Altman told the Secretary that he had decided not to recuse himself.

Senator D'AMATO. When was that meeting?

Ms. HANSON. I don't recall, sir. It was shortly after the meeting at the White House, but I can't place that specifically.

Senator D'AMATO. Could it have been the same day, on February 3, 1994?

Ms. HANSON. It could have been. I just don't recall.

Senator D'AMATO. Go ahead. Mr. Altman reported on the meeting at the White House to the Secretary?

Ms. HANSON. What I recall of the meeting was that he said he had decided not to recuse himself, for the time being, and that he didn't believe it made any difference, but it made them happy—

Senator D'AMATO. Made "them" happy, meaning who?

Ms. HANSON. —which I understood to be the people we had met with in the White House.

Senator D'AMATO. Do you remember the Secretary saying anything about that?

Ms. HANSON. I recall the Secretary saying that he thought he would—he, Mr. Altman, would take some political heat for the decision, but that it was his decision to make.

Senator D'AMATO. Did you have occasion, on the second meeting with the Secretary, and did you speak privately with Secretary Bentsen? Tell me about the second meeting with Secretary Bentsen and Mr. Knight. Do you know about the second meeting?

Ms. HANSON. It was not a second meeting, but there was a meeting with Mr. Knight, Mr. Altman, and Secretary Bentsen. I don't recall why that meeting was called or what else took place, but I recall that Mr. Altman went through and summarized the original White House meeting and the statute of limitations discussion and said that he had reserved judgment on the recusal decision. He, then, went on to say that he had later decided not to recuse himself for the time being.

Senator D'AMATO. After that meeting, did you have a conversation with the Secretary?

Ms. HANSON. Yes, I did.

Senator D'AMATO. Immediately following the meeting?

Ms. HANSON. I believe, it was immediately following the meeting. The Secretary said, "That's not exactly the way I recalled it," and I said, "I don't think it matters. I don't think it makes any difference."

Senator D'AMATO. You mean, the Secretary expressed the opinion that Mr. Altman had informed him, prior to going to the White House, that he was going to recuse himself? Isn't that when the Secretary said, "That's good. I agree with you"?

Ms. HANSON. The Secretary said, "It sounds like the right decision."

Senator D'AMATO. The Secretary indicated that he approved of that decision and, so now, he stops you and he says—

Ms. HANSON. That's what I understood the comment to mean.

Senator D'AMATO. You understood that to mean Mr. Altman's recounting of the original statement he made as to his decision to recuse himself, and the Secretary says, "That's not exactly the way I recalled it," because the Secretary recalled that Mr. Altman said he was going to recuse himself prior to that meeting at the White House?

Ms. HANSON. I don't know, exactly, what the Secretary recalled. That's what I understood the comment to mean.

Senator D'AMATO. That's what you understood the comment to mean.

Did you agree with Secretary Bentsen's recollection that Mr. Altman had decided to recuse himself before he went to the White House?

Ms. HANSON. As I stated, I don't know what the Secretary recalled, or really meant, by that statement, but I had recalled that Mr. Altman had made the decision before he had gone.

Senator D'AMATO. Mr. Chairman, I have no further questions.

The CHAIRMAN. I've just been trying to evaluate whether we should start at 9:30 a.m., or maybe make it a little bit later, because we've run so late tonight.

Senator DODD. Mr. Chairman, may I make one comment? Ms. Hanson, let me make it clear, my comments about those three clusters of issues and their handling went beyond just your involvement. I wasn't speaking, specifically, of your involvement, but just, generally, my assessment of how those issues were generally handled. You responded in terms of your own involvement, or your noninvolvement, in those particular incidents. I respect that answer but, nonetheless, Mr. Chairman, my conclusions have to do with more than Ms. Hanson's participation.

Ms. HANSON. I just wanted to make clear what my involvement was.

The CHAIRMAN. Let the record reflect that.

I think we'll start tomorrow morning at 10 a.m. Do we still have time to notify the witnesses of that? We've invited them to be here at 9:30 a.m.

Senator DODD. What time are we going to start?

They won't be disappointed to start a little late. If you tell them we're coming a little earlier——

The CHAIRMAN. I'm seeking a little judgment on that, because we're going to have our lunches tomorrow, and we're going to have to break for an hour or so——

Senator D'AMATO. Mr. Chairman, I can see another night——

The CHAIRMAN. I think you're right. I think we'd better stay with our original schedule. The witnesses are planning to be here at 9:30 a.m. We can't inform them now, so the Committee will resume at 9:30 a.m. As we adjourn, I want to thank you, Ms. Hanson, just for your durability there. You've spent a long time in the witness chair. I know this is not a pleasant experience, such as it is, but I appreciate your being here and I appreciate your staying and answering the questions.

Ms. HANSON. Thank you.

The CHAIRMAN. The Committee stands in recess.

[Whereupon, at 11:50 p.m., the hearing was adjourned, to reconvene at 9:30 a.m., on Tuesday, August 1, 1994.]

[Prepared statements, response to written questions, and additional material supplied for the record follow:]

## PREPARED STATEMENT OF JOHN E. RYAN

DEPUTY AND ACTING CHIEF EXECUTIVE OFFICER  
RESOLUTION TRUST CORPORATION, WASHINGTON, DC

Mr. Chairman, Members of the Committee, my name is John E. "Jack" Ryan. I am Deputy and Acting CEO of the RTC. I became Deputy CEO on January 4, 1994, and assumed the role of Acting CEO on March 30, 1994.

I am a career regulator with over 30 years' experience as a senior regulatory official with the Federal Reserve Board and more recently with the Office of Thrift Supervision where I have served as the Director of the Southeast Region of the Office of Thrift Supervision since October 1989. Over the course of my career, I have helped deal with and manage many of the financial crises that have occurred in the United States during the past 20 years including Continental Illinois, Penn Square, the foreign debt problem, and the savings and loan crisis, to name a few.

Last December, I agreed to serve temporarily as Deputy CEO of the RTC until a permanent CEO could be nominated and confirmed. When I agreed to the temporary assignment, it was my understanding that the process of selecting a permanent CEO was well underway and I anticipated my tenure would be limited to a matter of a few weeks. Obviously, that expectation turned out to be incorrect and my job has expanded to Acting CEO. As of this moment, I have no idea what the current status of the selection of a permanent CEO is, nor do I know how much longer I will have this responsibility. As I have repeatedly told the RTC staff, I will continue to discharge my responsibilities, including those related to Madison Guaranty, as though I was the permanent CEO and to the best of my ability.

The RTC is fully cooperating with this Committee in the conduct of these hearings. The RTC has provided the information and data requested by this Committee and has made staff available for depositions and testimony. The RTC is also cooperating fully with Special Counsel Fiske, the House Banking Committee, the Treasury Office of Inspector General, the RTC Office of Inspector General, the General Accounting Office, and the Office of Government Ethics in their investigations of various aspects of this matter.

During my deposition before Counsel for this Committee and before Special Counsel Fiske, I have been asked a number of questions most of which fell into the following categories: (1) how I came to be selected for this job; (2) my authority as Deputy CEO (which was my position when most of the events that are the subject of this hearing occurred); (3) my relationship with Mr. Altman and the Administration; (4) my knowledge of and/or participation in the Treasury-White House contacts; (5) whether I was ever instructed or pressured by Treasury or the White House to influence the investigation or the outcome of the investigation into Madison Guaranty Savings & Loan; and (6) whether I have done anything to impede or change the results of the RTC's investigation; e.g., tell RTC staff that I preferred a finding that Whitewater did not cause a loss to Madison.

I will now cover for the record, my answers to these questions.

I received a phone call in December 1993, while I was in Atlanta with the OTS, from Frank Newman, Under Secretary of the Treasury, whom I had known professionally when he was with Bank of America and I was at the Federal Reserve. Mr. Newman's call came not long after the nomination of Stanley Tate, as CEO, had been withdrawn, and he asked if I would consider a temporary assignment at the RTC. I traveled to Washington for two interviews, one with Mr. Altman and one with Secretary Bentsen. These interviews were the first time I had met either Mr. Altman or Secretary Bentsen. I don't believe the subject of Madison Guaranty came up during these interviews, as most of the discussions dealt with morale problems at the RTC and what could be done about them. At those interviews I agreed to serve as Deputy CEO of the RTC.

The position of Deputy Chief Executive Officer is a statutory one enacted in the RTC Completion Act. There was no Deputy CEO before me and, as a result, the existing RTC organizational structure and delegations of authority did not provide for one when I arrived. In fact, some of the senior officials of the corporation, by law, reported directly to the CEO. The lack of clear authority in the RTC's corporate structure, together with the temporary nature of my appointment and the fact that the Deputy Secretary of Treasury remained CEO, created a very challenging environment in which to assume operating responsibility. Obviously, much of my time in the early days was spent trying to gain understanding and some control over an organization that is surprisingly decentralized with functional units operating independently of each other. The precise decisionmaking responsibility is not only difficult to explain under such circumstances, but my observation is that it was often not clear to those working at the RTC as well.

During my tenure as Deputy CEO I reported directly to Mr. Altman, who was Interim CEO. It should be noted that Mr. Altman essentially withdrew from active RTC management following the February 24, 1994, Senate Banking Committee's RTC Semiannual Oversight Board hearing, some 7 weeks after my arrival. During the period preceding the hearing, regular weekly meetings were scheduled to discuss RTC matters, but due to Mr. Altman's busy schedule, many of the meetings never took place. The subject of Madison Guaranty came up 3 or 4 times during these meetings. The discussions were procedural and I am quite certain that the substance of allegations was not discussed. Let me note that Mr. Altman's instructions to me and other RTC staff always was to deal with Madison Guaranty the same as the RTC would deal with any other similar institution.

Regarding the meetings and/or contacts between Treasury and the White House, I first learned of the February 2, 1994, White House meeting in Mr. Altman's office during a question and answer session being held to prepare for the February 24, 1994, hearing before the Senate Banking Committee. I had no prior knowledge of this meeting and was unaware of other contacts until I read about them in the press.

As the Committee is aware, there have been press reports that a Kansas City investigator was told by a visiting Washington RTC lawyer that I would like to show that Whitewater did not cause a loss to Madison because it would get us "off the hook." I have never instructed anyone to do anything but find the truth and work to see if the RTC had a cost-effective civil case, as is our regular procedure.

In the final analysis, any judgment in this regard should be based on what is actually being done and on the results of the investigation that is presently underway. During my tenure, the RTC has taken the following steps: First, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information; second, the request that the Office of Inspector General review the RTC-generated report on the Rose Law Firm as well as the billings of that firm with respect to Madison; third, the retention by the Legal Division in early February 1994 of Pillsbury, Madison, and Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to Special Counsel, Robert Fiske. When the RTC has completed its investigation and taken appropriate action, a full report on this matter will be made to the U.S. Congress. We fully expect to be judged by our actions at that time.

Finally, I wish to state that no one at the Department of Treasury has exerted any pressure or instructed me to do anything to influence the RTC's investigation of Madison Guaranty, and I have never talked to anyone at the White House about Madison Guaranty, or anything else for that matter.

I will be happy to answer any questions you might have.

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## PREPARED STATEMENT OF ELLEN B. KULKA

GENERAL COUNSEL

RESOLUTION TRUST CORPORATION, WASHINGTON, DC

Mr. Chairman and Members of the Committee, my name is Ellen Kulka. I have been the General Counsel of the Resolution Trust Corporation since January 17, 1994. Before that, from February 1991 to January 1994, I was the Regional Counsel for the Northeast Region of the Office of Thrift Supervision in New Jersey. My first Government employment was in this capacity. Other than this period of Government service and a few years as Assistant Professor at the Graduate School of Management at Rutgers University, my entire professional career had been in the private sector, where I practiced corporate, securities, and banking law.

I have been frequently asked how I could possibly have accepted the job I now hold because of the widespread perception that the RTC operates in a difficult environment and might even be characterized as having had a history as a very troubled agency in which anyone associated with it is subject to disparagement or worse. And it is true that many urged me not to accept the position because of its thankless, grueling nature.

I would like to share with you my reasons for doing so, because they are relevant to my perception of my responsibilities. I was first interviewed for the position of General Counsel in the spring of 1993, 1 year after the death of my husband following a 4-year illness. In my more than 30 years of marriage, it had been he who had encouraged me to become a lawyer and to take on a full-time career—all this when it was an exception to the acceptable role of a woman with small children. During all those years, I had gladly limited my practice to the New Jersey area because

of the needs of my family. In the spring and late fall of 1993, as I weighed whether I should first seek and then accept a position with the RTC, it was my children, who are now young adults, who were the strongest advocates for my doing so.

So, in fact, the overriding factor in my coming to Washington was personal—the desire to start anew with an absorbing and challenging set of responsibilities. This is one circumstance where getting your wish carries with it more than could be anticipated.

From a professional standpoint, I was, in fact, urged by a number of colleagues and acquaintances seriously to consider taking the job, because they felt that I would bring to it strengths in a number of areas which were important to the task—my love of dealing with novel and difficult problems, my approach to problem-solving which involved integration of overriding policy or strategic issues with an understanding of pragmatic concerns and, finally, my interest in management as well as in the practice of law.

I understood that I was accepting a position with a short life because the RTC will sunset on December 31, 1995, and thought that this was a plus since it would be hard to make a commitment to such a stressful and demanding position for a longer period. Furthermore, since my personal goals did not involve seeking public office or remaining in Washington permanently (and I have, in fact, maintained my residence in New Jersey), I could come to the position without worrying what this job might lead to. Therefore, I would be able to maintain my independence. I saw the job as one similar to that which a trustee in bankruptcy performs—managing a complex set of operational (in my case, legal) issues while working toward the restructuring of a massive organization as it winds up its affairs.

In the course of seeking advice from my colleagues about what was most important to weigh in coming to a final decision about accepting the position, one of them stressed the importance of working with a CEO whom you could respect and with whom you shared a common vision of the agency's mission. This seemed to be the best advice I had received, so I asked who would be the permanent CEO of the RTC. I was told that a new CEO was expected to be nominated shortly, but his or her identity could not be shared with me at that time. However, a Deputy CEO for the RTC who would have day-to-day operating responsibility was about to be appointed immediately, to fill the new position created by the Completion Act which became effective on December 17, 1993. His name was John E. Ryan. While I had never worked with Jack Ryan, I had met him while I was at the OTS where he was Regional Director for the Southeast Region, based in Atlanta. More importantly, I knew him by reputation to be strong, smart, and independent and of enormous personal integrity. He had already had a long, distinguished career in bank and thrift regulation. Very pleased, I accepted the position.

The RTC Legal Division has a big job. Over 80 percent of the agency's lawyers provide legal services in connection with the operation and winding up of over 700 receiverships and conservatorships and the sale of hundreds of billions of dollars of assets. Attorneys provide legal expertise in contracting, structuring, and selling real estate assets and securities portfolios, and the myriad of legal issues that any large corporation encounters.

When I came to the RTC, I found a Legal Division that consisted of a number of independent practice areas that were geographically dispersed, providing legal services to various institutional clients within the RTC. I saw that one of my principal objectives was to develop a management structure and philosophy that would integrate the practice areas so that each area of the Legal Division would work with a better understanding of, and regard for, the other areas and the overall goals of the agency.

I also understood that the legal work of the RTC included managing a significant number of professional liability matters in which the agency pursues claims against directors, officers, lawyers, accountants, and others who had injured the savings and loans for which the RTC had been appointed receiver or conservator. To date, these efforts have resulted in collections of almost \$2 billion. I knew that the agency had been criticized, on one hand, for abusing its power and bringing the full weight of the Federal Government to bear indiscriminately on those who rendered services to the S&L's and, on the other hand, for failing to pursue zealously the wrongdoers who have destroyed a large part of an industry and cost the American taxpayer so much.

I believed, and continue to believe, that the overriding goal is to pursue in a cost-effective, tenacious, and fair manner the best cases that can be brought against those whose behavior was egregious. The RTC must bring those suits which are cost effective; it is not charged with punishing wrongdoers or prohibiting them from participating in the banking industry. That is the responsibility of other Government agencies.



Overwhelmingly, those I have worked with closely in the Legal Division since I have come on board have exhibited extraordinary commitment, integrity, and talent. Preserving the Legal Division's ability to maintain the staff it needs to do its remaining work and to keep morale high is one of the most important and challenging tasks I face.

Thank you.

## PREPARED STATEMENT OF JEAN E. HANSON

GENERAL COUNSEL

U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC

### Introduction

Mr. Chairman, Members of the Committee, I am Jean Hanson, General Counsel of the Treasury Department. I have been privileged to hold that position since June 1993. I am testifying today pursuant to Senate Resolution 229 exploring communications between Treasury officials, including me, and White House personnel relating to Madison Guaranty Savings & Loan ("Madison").

Out of respect for this Committee and for the investigations that preceded this Committee's work, I have refrained from speaking with reporters about this matter. There have been many recent leaks of my testimony and documents, which include numerous misstatements and mischaracterizations. I welcome this opportunity to testify publicly and to speak for myself. I hope you will make your judgments based on my testimony today.

I have tried my best to recollect everything that occurred about this matter. I have also reflected on the reasons for these conversations. I know that these conversations violated no law, no rule, and no ethical standard. I also know that they were appropriate, and that they furthered legitimate governmental interests.

### Background

Before I turn to Madison, I want to tell you a little about myself. For nearly two decades before coming to Washington, I practiced law in New York, and worked on complex corporate transactions. I came to New York from Minnesota, where I was born, and where I was reared to do things in a straightforward, Midwestern way—honestly and by dint of hard work. I am neither a "Beltway Insider" nor a political person; prior to coming to Washington, I had no contact whatsoever with the President or the First Lady; I did not campaign for them, or for any candidate, and I do not owe my Treasury appointment to political activism. I was recruited for my position. My husband is a Republican.

I did not know Secretary Bentsen before I accepted his offer to become Treasury General Counsel; indeed, I did not know anyone at Treasury or in the White House. I accepted Secretary Bentsen's offer for one reason—I wanted to contribute to the important work of the Government, and give something back to my country. I still do.

### My Role at Treasury and My Involvement in RTC Matters

At the outset, I would like to address my role in RTC matters. As Treasury General Counsel, I am charged with carrying out duties and assignments given to me by Secretary Bentsen or Deputy Secretary Altman. I fulfilled assignments relating to the RTC given to me by Mr. Altman and, at times, Secretary Bentsen, but at no time did I ever hold any position at the RTC, nor have I ever been Acting RTC General Counsel.

To say the least, the RTC is an unusual entity, and people often misdescribe it and its functions. For example, it is a corporation, not an "agency," except for limited purposes. It is *not* a regulatory body, because it does not regulate anything. And, it is *not* independent—the RTC CEO serves solely at the President's pleasure, unlike independent agencies, such as the SEC and the CFTC. It has a finite life span, now scheduled to end next year. Except for its CEO, it has no employees and must carry out its functions by utilizing FDIC and Executive Branch personnel, including Treasury employees.

As Interim RTC CEO, Mr. Altman had statutory authority to seek the assistance of Treasury personnel on matters related to RTC functions and, as Deputy Treasury Secretary, he had the authority to grant the assistance of such personnel. Mr. Altman asked me to assist him with policy-related and other issues involving the RTC, and I did so. Mr. Altman undertook to serve in two jobs, for a limited period. He

was entitled to all the assistance he could muster. It was entirely appropriate for me to assist him in any legitimate way he requested.

### How I Learned about Madison, and Why

I now turn to Madison, and what I learned, how, from whom, and to whom I imparted that knowledge. Given time constraints, I will not cover every meeting or conversation that I discussed in my deposition before the Committee. Rather, I address the principal contacts regarding Madison in which I was involved.

To put this into context, it is important to understand that there were two distinct phases to the RTC's consideration of Madison—first, was the preparation of multiple criminal referrals relating to Madison that I ultimately learned were forwarded to the Justice Department and, second, was the consideration by the RTC of potential civil claims that might be brought against various persons who had had some involvement with Madison. From the last few days of September 1993 through the second week of October 1993, the limited discussions in which I participated related to concerns about leaks to the press of the Madison criminal referrals.

In December, the passage of the RTC Completion Act revived the previously lapsed statute of limitations for many potential civil cases, including Madison. From mid-January 1994 until the end of February, the limited discussions in which I participated related to the statute of limitations and other procedural matters surrounding possible civil claims related to Madison.

### THE SEPTEMBER 1993 DISCUSSIONS

On September 27, 1993, RTC Senior Vice President, William Roelle, called to tell me that nine criminal referrals related to Madison were on their way from the RTC in Kansas City to Washington, after which they would be forwarded to the Justice Department; I clearly understood from Mr. Roelle that the referrals, and the information about them that Mr. Roelle imparted to me, would be leaked to the press when they arrived in Washington—which, in fact, did occur very close in time to Mr. Roelle's call to me. Mr. Roelle summarized the referrals, and said the President and Mrs. Clinton were mentioned as *possible witnesses*. I reported this conversation to Mr. Altman, who tasked me to advise Bernard Nussbaum, then Counsel to the President, of the imminent press leaks. On September 29, 1993, I did so, after a meeting that both Mr. Nussbaum and I had attended to discuss the Treasury's report on the handling of the Waco situation.

A few observations are in order. First, before Mr. Roelle's unsolicited call, I had no prior knowledge of Madison, other than a news story that had appeared during the campaign. Second, my task—to alert White House Counsel Nussbaum to imminent press leaks so he could deal with them intelligently—was entirely appropriate and necessary; the existence and substance of the criminal referrals *was* leaked, and the Administration *did* have to deal with the ensuing inquiries. Third, no preferential treatment or benefit was intended for anyone and, as far as I know, no one received preferential treatment. The President and First Lady were not the subject of any proposed governmental action; they were merely possible witnesses.

It has been reported that Mr. Altman does not recall tasking me to advise Mr. Nussbaum of what the RTC professional staff believed would be imminent press leaks. In my view, the difference between Mr. Altman's and my recollections on this point is not significant. If I had thought it was inappropriate to brief Mr. Nussbaum, I would not have done it. I take full responsibility for the decision to do so. What I think is significant is that Mr. Altman and I agree that it was entirely appropriate to brief Mr. Nussbaum about the expected leaks.

When the search was done to locate documents responsive to the Independent Counsel's subpoena, a September 30, 1993, memorandum I prepared was found in my secretary's chron files, as well as my own RTC files. That memorandum, addressed to Mr. Altman, had attached to it a document confirming that the referrals had been leaked to the press and reported that I had spoken to Mr. Nussbaum and Mr. Sloan, had briefed Secretary Bentsen, and inquired of Mr. Altman whether there was anything else he thought we should be doing regarding these press leaks. I do not have an independent recollection of writing this memorandum, but I am confident I prepared it—it bears my initials and is the kind of memorandum I write to report back on matters I have been asked to handle. Although I have no recollection of having briefed Secretary Bentsen as the memorandum states, I am sure my memorandum accurately reflects that I did. The memorandum does not specify the subject of the briefing; I may have told Secretary Bentsen of the meeting or, as is more likely, I may have alerted him to the fact that there would be press leaks relating to the Madison criminal referrals, and the nature of the anticipated leaks.

## THE OCTOBER 1993 DISCUSSIONS

On October 14, 1993, I attended a meeting at the White House arranged either by Mr. DeVore or Mr. Steiner, two senior Treasury officials, to discuss the handling of press inquiries Mr. DeVore, then Treasury's Assistant Secretary for Public Affairs, had received with regard to the Madison criminal referrals. The issue I recall Mr. DeVore saying the press had raised then was whether the referrals were being held up at the RTC and not being forwarded to the Justice Department. Implicit in the question was a suggestion of misconduct by Treasury or White House officials.

I have no doubt that the meeting was appropriate. First, the press inquiries Treasury had received confirmed that information about the criminal-referrals had been leaked now to at least two reporters, a significant breach of Government regulations that gave Administration officials no choice but to be prepared to respond. Indeed, I was struck, when the articles in question appeared at the end of October and the beginning of November, by how much more the reporters knew about these referrals than I ever did. Second, the inquiry was based on false information that cast the Administration in an inaccurate and decidedly prejudicial light, which the Government had an obligation to correct. Again, there was no intent, and certainly I know of no effort, to interfere in any way with the referrals which, I believe I subsequently learned, had already been forwarded by the RTC to the Department of Justice.

## THE FEBRUARY 1994 DISCUSSIONS

By mid-January, congressional attention became focused on upcoming deadlines under the statute of limitations for the filing of any *civil* claims the RTC might bring in the Madison matter. At the time, civil claims involving Madison had to be filed on or before February 28, 1994, unless the RTC either decided not to pursue any civil claims, or obtained tolling agreements from the parties who might be the subject of a civil suit. Various Members of Congress were pressing the RTC to obtain tolling agreements if the RTC could not complete its Madison investigation by February 28, 1994. In the face of the fast-approaching deadline, Mr. Altman considered whether he would recuse himself from substantive decisionmaking regarding Madison-related civil claims.

On February 1, 1994, Mr. Altman and I briefed Secretary Bentsen on the operation of the statute of limitations in the Madison matter. In that meeting, Mr. Altman stated that he had decided to recuse himself from any substantive decision-making regarding Madison civil claims, a course I had recommended to Mr. Altman, and one in which Secretary Bentsen concurred during our meeting. Mr. Altman stated that he wanted to meet with appropriate White House officials to apprise them of his decision to recuse himself. I said that I would attend the meeting with him.

To assist Mr. Altman, I prepared talking points to guide him through both the statute of limitations and recusal issues. Prior to leaving Treasury for the White House, out of an abundance of caution, I also consulted with my Deputy General Counsel, who is also Treasury's Designated Agency Ethics Officer, to see whether he had any pragmatic or other concerns regarding the topics Mr. Altman proposed to discuss. He had none.

The meeting took place in Mr. McLarty's office, although Mr. McLarty left before the meeting began. In addition to Mr. Altman and me, the meeting was attended by Messrs. Nussbaum, Ickes, and Eggleston, and Ms. Williams. Mr. Altman read the talking points, including the last point, that he had decided to recuse himself from any substantive decisionmaking in the Madison civil matter. There was no discussion regarding the substance of the RTC's investigation of the civil claims, and I was not capable of such a discussion, since I had no knowledge of the substance of the RTC's investigation.

After Mr. Altman's statement on recusal, a discussion ensued. Mr. Nussbaum asked if the matter would be decided by Ellen Kulka, the RTC General Counsel, and Jack Ryan, the Interim Deputy CEO of the RTC, to whom Mr. Altman had referred in his discussion. Mr. Altman responded, "Yes." Mr. Nussbaum also asked why Mr. Altman was recusing himself, since no one appeared to believe that there was any legal or ethical requirement that he do so. Mr. Altman indicated that I had recommended that he recuse himself. I added that Secretary Bentsen had concurred in that judgment.

Mr. Nussbaum said that he knew Ellen Kulka, or knew of her, from her prior tenure at OTS. Mr. Nussbaum said that he was not saying that Ms. Kulka was not a good lawyer, but that she was tough. Mr. Altman responded by saying he had enormous confidence in Ms. Kulka, and that he would follow any recommendation he received from her anyway, so his involvement was irrelevant. Mr. Nussbaum expressed the view that even if Mr. Altman intended to follow his staff's recommenda-

tion, Mr. Altman's presence as the RTC CEO would ensure that the RTC staff pursued any claims with thoroughness and professionalism.

Mr. Ickes expressed the view that, if Mr. Altman were going to disqualify himself, it would be better if he did it sooner, rather than later. Ms. Williams asked whether, if the investigation could not be completed by the end of February, that would mean that tolling agreements would have to be signed. Mr. Altman indicated that he thought so. She also asked if counsel for the private parties would be briefed; Mr. Altman indicated that he thought so, but was not sure. The meeting ended with Mr. Altman stating that he would think about the recusal issue overnight, and Mr. Nussbaum told him that was all they could ask. The following morning, Mr. Altman told me that he had decided not to recuse himself for the time being.

The White House meeting on February 2, 1994, was proper. First, the briefing on the operation of the statute of limitations did not impart any nonpublic information; it merely apprised the White House of how the law operated, a briefing also given to congressional personnel.

Second, the briefing served a legitimate governmental purpose. By the February 2, 1994, meeting, Senator D'Amato and others were counting down the days, wondering whether the RTC would make a decision in connection with possible Madison civil claims before the statute of limitations expired, and what that decision would be. Mr. Altman was aware of the recusal issue, and acted appropriately in considering whether to exercise his discretion to recuse himself, a decision that ethics officers advised was entirely up to him and was "not mandated by ethics statutes or regulations." When he reached a conclusion, it was entirely appropriate for him to tell Mr. Nussbaum and other White House officials.

Third, no discussion took place regarding the substance of any civil claims. I was not in a position to have such a discussion.

Fourth, and most importantly, Mr. Altman viewed the issue of recusal as one of process, not substance, because, as he repeatedly said to me, to Ellen Kulka, and to others, Mr. Altman intended to follow whatever recommendation he might receive from Ms. Kulka. I believed him then, and I believe him now.

In recounting the events of February 1-2, 1994, I am aware that others' recollections differ from my own. I do not question the good faith of anyone who has a differing recollection. Most importantly, I think these differences in recollection are irrelevant. What matters is that each of the events in which I was a participant pursued legitimate objectives and were appropriate. Despite differences in recollections, no one, to my knowledge, intended to do, or did, anything wrong or unethical.

#### THE OVERSIGHT HEARINGS

On February 24, 1994, this Committee held RTC oversight hearings. It was the first time, in about a year, that those hearings had been held, so the scope of the topics to be covered was enormous. For over a week, often working around the clock, a team of RTC, oversight board, and Treasury officials prepared testimony, questions and answers, and otherwise researched issues that were thought likely to arise at the hearings. Ultimately, a substantial briefing book was put together for Secretary Bentsen and Mr. Altman. When the day of the hearings came, Secretary Bentsen and Mr. Altman testified on a panel of witnesses, and I was seated in the row behind them, along with other Treasury and RTC officials. The hearings went on for 4½ hours, without a break.

During the hearings, I was aware of a number of responses that Mr. Altman gave that I believed would require further elaboration. I expected and understood that, in the ordinary course, the record would be supplemented and, if necessary, corrected, and that we would have the opportunity to do so in a careful, professional, and thoughtful way, following a review of the transcript. But the events of the next week overtook us. A March 3, 1994, *Washington Post* article discussed the September and October White House meetings I have described for you this afternoon. Rather than awaiting a complete review of the transcript, piecemeal corrective efforts began. The next day, March 4, 1994, Grand Jury subpoenas were issued by Independent Counsel Fiske. This effectively ended the normal processes that would have occurred to review and supplement testimony.

Two questions that Mr. Altman was asked during his testimony have been the focus of some attention. I have been asked why I did not speak up at the hearings, or have Mr. Altman supplement his February 24, 1994, testimony. I want to address those issues directly.

At page 69 of the printed record of the Committee's hearings, the following question was asked and answered:

Senator BOND. How was the White House notified of the referral?

Mr. ALTMAN. They were not notified by the RTC, to the best of my knowledge.

When this question was posed, I realized that there had been no consideration of this question in preparing Mr. Altman's briefing materials and that I had not thought about the fall events relating to the criminal referrals in many months. Although I remembered that I had spoken with Mr. Nussbaum about the referrals, I did not have a clear recollection of the meeting, or the events surrounding it. Listening to the question in the context of the questions that came before and after, it appeared that it related to RTC contacts with the White House about the criminal referrals. Moreover, Mr. Altman was asked, and answered, about the extent of his own knowledge. I did not know, sitting there, what he knew or recalled knowing. Without discussing the matter with Mr. Altman and others at Treasury, I did not believe that I could suggest to Mr. Altman, on the spot, that he change his response.

At page 55 of the printed record of the Committee's hearings, the following question was asked by Senator Gramm:

Have you, or any member of your staff, had any communication with the President, the First Lady, or any of their representatives, including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

Although Mr. Altman responded affirmatively to this question, and described his discussion at the February 2, 1994, White House meeting about the statute of limitations, his answer did not include a description of the recusal discussion. I believed it was appropriate to wait until we could discuss his answer and the reasons that he had not mentioned the subject of recusal, to decide how best to supplement the record. As I have indicated, that opportunity never arrived.

As I left the hearing on February 24, 1994, I spoke with Steven Harris, the Committee's Staff Director and Chief Counsel. Mr. Harris told me that there were going to be follow-up questions for Mr. Altman from the Committee. The next day, Mr. Harris emphasized that we should expect *many* follow-up questions. On the following Tuesday, I was given a copy of a Reuter's transcript of a colloquy between Senators Riegle and D'Amato, in which Senator D'Amato set forth over a dozen questions that he wanted answered about the White House meetings described in Mr. Altman's testimony. Senator Riegle responded to Senator D'Amato that, "The Committee record is still open," and that Senator D'Amato's questions should be submitted to Mr. Altman so that they could be answered and included in the record.

Based on this and on what Mr. Harris told me the previous week, I fully expected that we would receive written follow-up questions, which would be answered in conjunction with a thorough review of the transcript of the testimony. There was no doubt in my mind that all of these conversations and meetings would be disclosed and described fully to the Committee, and every question would be answered. However, as I stated, with the service of Grand Jury subpoenas by the Independent Counsel, the normal process of reviewing and, if necessary, correcting the record was overtaken by the many investigations that ensued.

## Conclusion

As my description of the events of last fall and this past winter makes clear, each of the conversations between White House and Treasury officials at which I was present served a legitimate governmental purpose, and was not intended to, and, in fact, did not, further any private interests or bestow any benefit on any individual. The same cannot be said for the RTC employee, or employees, who leaked information about the criminal referrals to news reporters, breaching the OGE's ethical standards and RTC regulations. No action was ever taken against them.

I think it is important for all of us to maintain our focus. Much has been made in the press about purported inconsistencies between some of my recollections and those of Secretary Bentsen and Deputy Secretary Altman. I have the highest respect for both Secretary Bentsen and Deputy Secretary Altman, and it is my honor and privilege to serve with them, and report to them. The fact that we have differences in recollection should come as no surprise. Witnesses to events often have differing recollections. And, frankly, the differences here are not important—they are not important because no one, not me, not anyone at Treasury, and no one at the White House, attempted to interfere in the substance or processes of any criminal referrals, or the substance or processes of any potential civil claims, involving Madison. The criminal referrals were made, the civil claims continue to be explored, and Mr. Altman recused himself from any involvement in the Madison matter almost half a year ago, never having made, or having been asked to make, a substantive decision.

At the outset, I indicated that I only know one way to do things—with honesty, and consistent with legal and ethical requirements. I testified extensively before the staff of this Committee, and this is the seventh day I have given sworn testimony before a governmental investigative body. I have tried to give this Committee—al-

beit in abbreviated form today—my best recollection of what occurred, and why. I am satisfied that I have given you my best recollection, as I have done on each prior occasion that I have testified and the numerous additional times I have been interviewed. I have no doubt about the propriety of my actions. I have no reason to doubt the propriety of anyone else's actions.

I thank the Committee for the opportunity to make this statement. I welcome any questions the Committee may have.



## REVIEW & OUTLOOK

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### Who Is Jack Ryan?

Among the Whitewater witnesses to come before Congress this week, potentially the most interesting is one of the most unheralded: John E. "Jack" Ryan, the career regulator left behind at the Resolution Trust Corp. when Friend of Bill Roger Altman departed. Mr. Ryan has been even more directly involved than Mr. Altman in some of the most curious aspects of the handling of Madison Guaranty, the Whitewater thrift.

Mr. Ryan might also be able to shed some light on the mystery of how the Bank of Credit & Commerce International won approval to buy First American Bank in Washington; he was head of Bank Supervision at the Federal Reserve when the purchase was approved. For that matter, during a brief sojourn in the private sector somehow not mentioned in recent biographies, he worked for a law firm connected to two other major financial scandals, the collapse of ESM securities in Florida and the related Ohio thrift debacle. Mr. Ryan came in as Mr. Altman's deputy at the RTC last January, along with RTC general counsel Ellen Kulka; White House counsel Bernard Nussbaum testified last week that both appointments were vetted by the White House.

"April stated very clearly that Ryan and Kulka, the 'head people,' would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been

able to say that to them," read notes of a conversation with RTC Washington attorney April Breslaw written by L. Jean Lewis, the senior criminal investigator in charge of the Madison Guaranty investigation in the RTC Kansas City office. Ms. Lewis responded that the Whitewater account alone might show losses exceeding \$100,000.

Ms. Lewis was subsequently removed from the Madison case. Ms. Breslaw denied she had said the things recorded in Ms. Lewis's notes, but Rep. Jim Leach said Ms. Lewis's account was corroborated by a tape recording she had made and he had heard.

Under Mr. Ryan's tenure, the RTC also upheld Mr. Altman's unprecedented decision to deny Rep. Leach's requests for documents relating to Madison. Though the RTC had provided the minority staff of the banking committee with independent access to documents regarding other thrift scandals, Mr. Ryan wrote Rep. Leach that he was entitled only to documents "otherwise available to the public pursuant to the Freedom of Information Act."

We hope that when Mr. Ryan appears before the Senate Banking Committee this morning, the questioners will pause for a moment to complete his resume. When asked for a biography, the RTC supplies a release from the Office of Thrift Supervision, where Mr. Ryan served immediately before Mr. Altman chose him as a deputy. It says he joined the Fed in 1960 and served as Director of the Division of Banking Supervision and Regulation from 1977 to 1985. And that he joined the Federal Home Loan Bank of Boston in 1986, before moving to the



John E. Ryan

OTS Atlanta office in 1989. Similar accounts appear in the Treasury news release announcing his RTC appointment and in an interview in the agency's own Resolution Trust News, entitled, "Getting to Know Acting CEO Jack Ryan."

In fact, according to news reports at the time, Mr. Ryan left the Fed in February of 1985 to become financial adviser to the Miami law firm of Arky, Freed, Stearns, Watson, Greer, Weaver & Harris, P.A. The next news report on his career comes in September 1986, with the announcement of his appointment to the Boston Home Loan Bank. Through an RTC spokesman, Mr. Ryan declined to be interviewed about his 18 months in the private sector.

Stephen Arky, head of the law firm that hired Mr. Ryan, committed suicide in July 1985, leaving a note declaring his innocence in the collapse of ESM Securities, and blaming his friend and client Ronnie Ewton. Mr. Arky was also son-in-law and business partner of Marvin Warner, owner of the Home State Savings Bank and also ambassador to Switzerland during the Carter Administration, partly thanks to Bert Lance, a banking friend from Georgia. The ESM collapse jeopardized Home State and led to runs on other state-insured thrifts in the 1985 Ohio banking crisis. Mr. Warner and Mr. Ewton served jail sentences for securities and banking fraud.

Senators responsible for banking regulation might want to inquire about Mr. Ryan's impression of these events, which seem to have taken place during his tenure at Arky, Freed. They might also ask about the 1981 regulatory failure that allowed front men for BCCI illegally to buy an important U.S. bank. Robert Altman was acquitted of misleading regulators, and his partner Clark Clifford was excused from trial because of age and infirmity. So we have no good account of what the mistake was.

In their cross-examination of Mr. Ryan and other witnesses at trial, Robert Altman's lawyers repeatedly suggested that the Fed was not misled because it already knew what was taking place. Mr. Ryan's supporters say that the federal regulator suspected that BCCI was behind the takeover, but lacking hard proof, did not have the political weight to go up against the mighty Mr. Clifford, a Washington icon.

Whatever the full story, Mr. Ryan joins a cast of figures with BCCI connections who also figure in the White-water controversy. Attorneys for Mr. Clifford and Mr. Altman included independent counsel Robert Fiske and Deputy Attorney General Jamie Gorelick, as well as Robert Bennett, president Clinton's attorney in the Paula Corbin Jones case. And, of course, Arkansas investment banking giant Stephens Inc., which says all connections with the BCCI front men ended in 1978, does acknowledge it handled their initial brokerage for the purchase.

Indeed, in the early takeover maneuvers Financial General Bankshares, First American's predecessor company, brought a 1978 lawsuit naming "Bert Lance, Bank of Credit & Commerce International, Agha Hasan Abedi, Eugene J. Metzger, Jackson Stephens, Stephens Inc., Systematics Inc. and John Does numbers 1 through 25." The suit was ultimately settled, but intriguingly, briefs for Systematics, a Stephens property, were submitted by a trio of lawyers including C.J. Giroir and Webster L. Hubbell and signed by Hillary Rodham.

We've compiled this list of coincidences in our role as aficionados of financial scandal, and recite it here because we're not confident either readers or Senators have been watching as carefully. We hope the Senate Banking Committee could help us understand what it means, if anything, and Mr. Ryan's testimony looks like a good opportunity to start.





DEPARTMENT OF THE TREASURY  
WASHINGTON

**REPORT TO  
THE SECRETARY OF THE TREASURY  
  
FROM  
THE OFFICE OF GOVERNMENT  
ETHICS  
JULY 31, 1994**



United States

## Office of Government Ethics

1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

July 30, 1994

The Honorable Lloyd Bentsen  
Secretary of the Treasury  
Washington, DC 20220

Dear Mr. Secretary:

By letter dated March 3, 1994, you requested that I provide you with my views on whether any ethics or conflicts questions were raised by certain meetings or other contacts between employees of the Department of the Treasury and White House officials concerning the Resolution Trust Corporation's (RTC) resolution of the Madison Guaranty Savings and Loan Association (Madison).

The Office of Government Ethics (OGE) is not an investigative agency. For this reason, and because Treasury's Designated Agency Ethics Official provided ethics advice in advance of one meeting and is the Deputy of one of the participants in several of the contacts at issue, I offered to provide the advice and assistance of my Office to the Inspectors General of Treasury and the RTC in connection with an administrative investigation of the matter to be conducted by them. I agreed to review the report issued by these offices to provide you with whatever advice I believed would be appropriate under the circumstances. It is of course, your responsibility to make any necessary determinations.

The Office of Government Ethics does not ordinarily participate in an agency's investigation of the conduct of its own employees or make recommendations as to appropriate disciplinary or remedial action. Treasury, as the employing agency, is primarily responsible for determining whether the conduct of its employees violates the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. part 2635. There are, however, formal procedures under which OGE may become involved in recommending corrective or disciplinary action based upon a violation of the noncriminal portions of the standards of conduct. Those procedures may be triggered if OGE has reason to believe that the standards of conduct have been violated and then determines that the agency has not investigated the activities, has inadequately investigated the activities, has improperly interpreted or applied an ethics provision, or has taken or recommended inappropriate corrective or disciplinary action. An employee whose conduct is under review by OGE pursuant to these procedures is entitled to a hearing conducted on the record. These procedures are set forth in 5 C.F.R. part 2636, Subpart E.

These procedures have not been triggered. With regard to any question about an investigation, the Department of the Treasury, in

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conjunction with the RTC, has completed an investigation. We received their final report at noon yesterday. Considering the severe constraints placed upon those offices to complete this investigation in time for your use in preparing Congressional testimony, we believe they have done an admirable job. While some details may not have been as fully developed as they or we might have wished, we do not anticipate that any further details would have a significant effect on our analysis. Further, since you have not yet acted with regard to the report, we have no basis to believe you have improperly interpreted or applied an ethics provision or taken or recommended inappropriate corrective or disciplinary action. Our only purpose in this letter is to provide an analysis of the standards we believe are applicable for your consideration in whatever decisions you make.

Because your authority as Secretary of the Treasury relates to employees of the Department, the report of the Inspectors General is necessarily focused upon the activities of officials of the Treasury Department. For that reason, our analysis is not intended to cover, nor should it in any way reflect upon, the actions of individuals who are employed by the White House. Further, because the sanctions for violating the executive branch standards of conduct are administrative in nature and, therefore, applicable only to current employees, we have not provided an exhaustive analysis of the conduct of any individual who is no longer employed by the Department.

#### INTRODUCTION

In view of the considerable attention and commentary this matter has received, it is appropriate before setting forth our analysis to emphasize that all conduct that some may perceive as "unethical" does not necessarily violate the standards of conduct. The standards at 5 C.F.R. part 2635 are regulatory provisions based upon the "Principles of Ethical Conduct" enumerated in Executive Order 12674. Their focus is on ensuring that employees do not use their public offices for nonpublic purposes. The standards are, in effect, a written code, with provisions sufficiently specific in their application to certain types of conduct that an employee can be held accountable, by administrative disciplinary action, for their violation. The standards of conduct are not a yardstick by which all Governmental action can be measured.

"Ethics," in its true sense, is a far more expansive concept. For instance, whether the United States should send food to famine victims abroad is a policy decision with a clear "ethical" dimension. Without some personal financial or other interest in the undertaking, however, the actions of those who make or carry out that determination would not violate the standards of conduct, even though many might characterize a decision to withhold aid as "unethical."

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The standards set forth a code of conduct to which employees of the executive branch must, at a minimum, adhere. Every violation of a statute, regulation or policy does not amount to a violation of the standards of conduct; most such actions are simply violations of the applicable statute, regulation or policy. Moreover, the standards of conduct do not hold individual employees accountable for Governmental systems that fail or for errors of judgment. That is not to say that individual employees are not otherwise accountable for Governmental systems for which they are responsible or for the judgment they exercise. There may be substantial management and program reasons for reviewing an employee's performance in a particular role. That management responsibility is separate and apart from the responsibility that an agency also has to measure the employee's conduct against the standards of conduct.

#### ANALYSIS

This Office has reviewed the report of the Inspectors General dated July 29, 1994, including the transcripts of the interviews conducted and the documents provided as exhibits. We received copies of the transcripts as they were produced but we relied upon review by the Inspectors General of documentation other than that provided as exhibits.

On the basis of our review, we believe that you might reasonably conclude that the conduct detailed in the report of officials presently employed by the Department of the Treasury did not violate the Standards of Ethical Conduct for Employees of the Executive Branch. However, many of the contacts detailed in the report are troubling. In the course of our review, it appeared that there were some misconceptions on the part of Treasury employees that may have contributed to the fact that those contacts occurred. Treasury employees who performed both Treasury and RTC functions seem to have failed to appreciate which roles they were performing and, thus, which agency's policies and regulations applied. In addition, based on our reading of the testimony, there appears also to have been a misperception that the standard at 5 C.F.R. § 2635.703 regarding the use of nonpublic information was the only provision that need be taken into account in deciding whether information should be conveyed. And, finally, there appears to have been a misunderstanding of the function of recusal.

#### PERTINENT PROVISIONS OF THE STANDARDS OF ETHICAL CONDUCT

During the period when Independent Counsel Robert Fiske was conducting his investigation and the Inspectors General were waiting to begin their administrative investigation, this Office reviewed the standards of conduct to determine which standards, if any, might apply to the conduct of Treasury officials. With press accounts as our only basis for what conduct might be involved, we

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determined that a "worst-case scenario" might implicate the following provisions in 5 C.F.R. part 2635:

§ 2635.101(b)(6), the principle that an employee shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government;

§ 2635.101(b)(8), the principle that an employee shall act impartially and not give preferential treatment to any private organization or individual;

§ 2635.101(b)(14), the principle that an employee shall endeavor to avoid any actions creating the appearance that he is violating the law or ethical standards set forth in this part;

§ 2635.702, the standard that an employee shall not use public office for the private gain of friends, relatives or persons with whom the employee is affiliated in a nongovernmental capacity;

§ 2635.702(a), the standard that an employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit to himself or to friends, relatives or persons with whom the employee is affiliated in a nongovernmental capacity;

§ 2635.703, the standard that an employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure;

§ 2635.704, the standard that an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes;

§ 2635.705(a), the standard that, unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties.

§ 2635.705(b), the standard that an employee shall not encourage, direct, coerce or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

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We provided the Inspectors General with references to these provisions and discussed possible lines of inquiry to assist them in establishing the boundaries of their investigation and framing their interview questions. We did so with the caveat that their factual findings might narrow or expand the list.

After reviewing the report, we saw nothing to indicate that any provisions other than those noted above were in issue. We saw no indication whatsoever that any Treasury employee knowingly made an unauthorized commitment or promise of any kind purporting to bind the Government. 5 C.F.R. § 2635.101(b)(6). We also saw nothing that would require an analysis of whether any Treasury employee had used his or her own official time or that of a subordinate for other than official duties. 5 C.F.R. § 2635.705. In addition, the provisions of 5 C.F.R. § 2635.704 regarding misuse of Government property did not appear to be in issue. That section's inclusion of "Government records" within the definition of "Government property" was intended to ensure compliance with various specific legal proscriptions regarding the Government's ownership of its records, such as the Records Disposal Act. Those proscriptions were not implicated by the handling of any record at issue in this case.

The Standard that proved to be most, though not exclusively, pertinent to our analysis was 5 C.F.R. § 2635.703, which provides in part:

a. Prohibition. An employee shall not . . . allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or knowing unauthorized disclosure.

The concept of what constitutes nonpublic information is important in applying this standard and the regulation, itself, provides the following definition:

(b). Definition of nonpublic information. For purposes of this section, nonpublic information is information that the employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public. It includes information that he knows or reasonably should know:

(1) Is routinely exempt from disclosure under 5 U.S.C. 552 or otherwise protected from disclosure by statute, Executive order or regulation;

(2) Is designated as confidential by an agency; or

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(3) Has not actually been disseminated to the general public and is not authorized to be made available to the public on request.

It is our understanding that documents containing information about referrals to the Department of Justice are generally exempt from public disclosure by virtue of exemption (b) (7) of the Freedom of Information Act (FOIA), 5 U.S.C. § 552. In addition, information about RTC-generated criminal referrals, including the fact that a referral has been made, appears to have been designated as confidential by the RTC. As set forth in the memorandum of June 17, 1993 provided as Exhibit 3, RTC's policy with respect to criminal referrals is one of strict confidentiality. Unless directed by counsel, disclosure of any investigative matter is prohibited without authorization by the head of the Office of Investigations.

As a general proposition, the fact that information has been leaked would not cause an agency to consider the information to have lost its "nonpublic" character. This is well-established under the FOIA. A number of FOIA cases have dealt with the question of whether the unauthorized disclosure of information would prevent an agency from claiming that the information is nonetheless exempt under the FOIA. It is clear from the decisions in these cases that a waiver of the FOIA exemptions has not occurred because of an unauthorized disclosure. See, e.g., Simmons v. Department of Justice, 796 F.2d 709 (4th Cir. 1986); Medina-Mincapie v. Department of State, 700 F.2d 737 (D.C. Cir. 1983). Note also that in Resolution Trust Corporation v. Dean, 613 F. Supp. 1426 (D. Ariz. 1993), a non-FOIA civil discovery decision, the court found no waiver of the attorney client privilege where an RTC "Authority to Sue Memorandum" was leaked.

This proposition regarding the "nonpublic" nature of information that has been leaked would hold true as well under § 2635.703 of the standards of conduct. Leaked information could be "nonpublic" within the meaning of § 2635.703(b) in that it could be exempt under the FOIA; could retain an agency designation of confidentiality; or would not have been "authorized to be made available to the public on request."

The RTC's policies and procedures regarding disclosure of information about criminal matters referred to the Department of Justice, as set forth in the June 17, 1993 memorandum and other RTC documents, provide for information about such referrals to be shared within the Government only among a few specified entities. The White House is not among the entities specified. Exceptions to the RTC's disclosure policy must be authorized as noted above.

The RTC's disclosure policy may have been violated in this case if information regarding a criminal referral was discussed

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outside the parameters of that policy, i.e., without the necessary authorization. For example, Ms. Hanson stated with respect to the September 29 disclosure that she had been directed by Mr. Altman to provide information about a referral to Mr. Nussbaum. Mr. Altman does not recall having given that authorization. In view of the discrepancy between Ms. Hanson's and Mr. Altman's recollections, however, we cannot say for certain whether authorization from the head of the agency was obtained in that instance. Even had such authorization been obtained, we cannot say that such authorization would comport with the RTC's disclosure policy.

In any event, such a finding would resolve only one element of § 2635.703. In order for a violation of § 2635.703 to occur, not only must a disclosure of nonpublic information be "unauthorized," the disclosure also must be "to further [the employee's] own private interest or that of another." That element of § 2635.703 is discussed below, in the analysis of the standards of conduct as applied to the contacts listed in the report.

#### CONTACTS

Our analysis of the applicable standards of conduct is set forth below in the chronological order in which the contacts occurred. In some instances the actual dates of the contacts are uncertain although the contacts are placed in the chronological order most supported by the participants' recollections.

#### 9/29 Meeting between Hanson, Nussbaum and Sloan

Ms. Hanson recalls that during the meeting that occurred on September 29, 1993, she informed Messrs. Nussbaum and Sloan that the RTC was about to make a criminal referral relating to Madison and that the Clintons were not objects of the investigations, but were mentioned as possible witnesses. According to Messrs. Nussbaum and Sloan, she related some additional details concerning the referral.

The September 29 meeting requires analysis under § 2635.703 and under the appearance principle at § 2635.101(b)(14) as applied to that standard. If § 2635.703 was not violated, the impartiality principle at § 2635.101(b)(8) could, nevertheless, be implicated. We saw nothing in the record to suggest that Ms. Hanson has a personal friendship or nongovernmental affiliation with the President or Mrs. Clinton or with any other person who would might be affected by the referral. Thus, neither § 2635.702 nor § 2635.702(a) would appear to be in issue.

For a disclosure to violate § 2635.703, the information conveyed must be nonpublic and the disclosure by the employee must have been a "knowing, unauthorized disclosure" made "to further [the employee's] own private interest or that of another." While



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the term "nonpublic" used in § 2735.703 may tend to suggest that this provision is intended to apply to disclosures made to those outside the Government, the section does in fact apply to disclosures to other Federal employees when made for the purpose of allowing the improper use of nonpublic information to further the private interests of another. The term "another" has its ordinary, broad meaning and is not limited by any definition to those other than Federal employees.

We believe the information conveyed in the course of the meeting was nonpublic information within the meaning of § 2635.703(b). Ms. Hanson has indicated that her purpose in disclosing the information about the pending referrals was to enable the White House to prepare to respond to press inquiries because the information was apt to be leaked. According to Mr. Nussbaum, the purpose she indicated to him was to assist the White House in preparing to respond to press inquiries likely to result from leaks to the press.

The question of whether Ms. Hanson's disclosure served an official interest raises a unique issue about the nature of the Office of the President. Matters that would be of only personal significance for other executive branch officials may take on official significance when the President of the United States is involved. White House staff has long been used in addressing press inquiries regarding essentially personal matters involving the President and First Lady. Since appropriated funds have been spent for these purposes from administration to administration without any legal objection of which we are aware, we are not in a position to question the validity of the assumption apparently made by those who participated in the contacts detailed in the IG report that dealing with press inquiries regarding the President's and First Lady's personal lives, including any involvement they may have had with Madison, is a proper White House function. Since there is no information in the report suggesting that Ms. Hanson had any purpose other than assisting the White House to perform its press function, we believe there is a reasonable basis to conclude that Ms. Hanson's disclosures were not made to further a private interest. Whether it is an appropriate activity for Treasury employees to assist the White House press office in carrying out its functions in fielding questions about the personal interests of the First Family would seem to be a management issue.

We also considered the possibility that Ms. Hanson's disclosure may have violated the appearance standard, which is set forth at § 2635.101(b)(14) as follows:

Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the

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law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

As applied to the nonpublic information provisions of § 2635.703, the appropriate inquiry under the appearance standard is whether a reasonable person with knowledge of the relevant facts would have reason to believe that Ms. Hanson disclosed the information regarding the referral for the purpose of furthering the private interests of the President or others, as opposed to another purpose including the public interests of the Office of the President. Information about investigations and referrals is protected, in part, to ensure that the subjects of those investigations or referrals and others who are interested do not interfere with and are not needlessly embarrassed by the investigative process. The facts surrounding Madison are so complex that we are unwilling to speculate what private advantage, if any, might be gained by knowing about the referral. We will assume, however, that there was a private advantage that could have been gained by the President through knowledge of the referral. When we are discussing the President's private interest, it should be assumed that the President's private interests include the interests of the First Lady.

We believe that you could conclude that the appearance principle was not violated by Ms. Hanson's disclosure. We recognize that some may harbor a "suspicion" that the information was provided to be used for the private advantage of the President. The appearance principle, however, does not hold an employee accountable through disciplinary action based upon a standard of suspicion. Appearances are to be judged from the perspective of a reasonable person with knowledge of the relevant facts. In the preamble that accompanied publication of the standards as a final rule we stated that we view the reasonable person test as providing "appropriate assurance to an employee that his or her conduct will not be judged from the perspective of the unreasonable, uninformed or overly zealous." 57 Fed. Reg. 35,008 (1992).

The report does not contain any facts that would suggest that Ms. Hanson had reason to believe that the information she provided would be improperly used to further the private interests of the President or any other individual. There is nothing in the report, for example, that would indicate that she had any reason to believe the information would be given to the President's private counsel or to others who may have been mentioned in the referral. In the absence of any such indication in the report, we believe it is appropriate for you to consider facts which would give a reasonable person reason to believe that her purpose was, as she has stated, to enable the White House to perform its press function. Among facts that we view as relevant are Mr. Roelle's statement that he thought it was his responsibility to carry out the policy within

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the RTC to advise the CEO of high profile cases precisely because leaks are a problem at the RTC. That policy would seem to be warranted based on the RTC's receipt of press inquiries indicative of leaks only a week after the disclosure to the White House took place.

The report understandably does not cover executive branch practice with respect to agencies advising the White House on matters about which it is likely to receive press inquiries. That, however, is a fact that you should consider relevant to the appearance analysis. This Office, for example, routinely deals with the White House on matters relating to the process of confirming Presidential nominees and, as a matter of course, keeps White House staff apprised of confirmation-related matters, such as potential financial conflicts of interest, that are likely to be of interest to the press. As Secretary of the Treasury, you are in a better position than we to know the various departmental practices on advising the White House regarding matters involving the President likely to be of interest to the press.

As a final note on the appearance issue we should add that we recognize that having a public purpose for a disclosure does not preclude an employee from also having as a purpose the furtherance of a private interest. However, there are no facts in the report that suggest to us that this was Ms. Hanson's state of mind. If press leaks were imminent, as Ms. Hanson appears to have believed, any private advantage to be gained by knowledge of the existence of the referral would have been largely negated by the newspaper reports flowing from those leaks.

Because we saw nothing in the report that leads us to believe that Ms. Hanson violated § 2635.703 by a disclosure intended to further a private interest, we see no need to address the additional possible issue under that section of whether her disclosure was authorized by Mr. Altman.

The ethical principle in § 2635.101(b)(8), that an employee shall act impartially and not give preferential treatment to any private organization or individual, is implemented by subpart E and § 2635.702(d) of the standards. Subpart E provides that an employee should not participate in an official capacity in certain matters without first obtaining specific authorization if, in his judgment, persons with knowledge of the relevant facts would question his impartiality in those matters. The matters covered include a particular matter involving specific parties if the employee knows that it is likely to affect the financial interests of a member of his household or that a person or entity with whom the employee has any of the "covered relationships" described in subpart E is a party or represents a party in the matter. Section 2635.702(d) provides that " . . . an employee whose duties would affect the financial interests of a friend, relative, or person

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with whom he is affiliated in a nongovernmental capacity" shall comply with any applicable procedures in subpart E before carrying out his duties.

It has been suggested that the September 29 meeting and other contacts between Treasury and White House officials comprised preferential treatment of President and Mrs. Clinton, in violation of the Standards of Conduct. However, the conditions necessary for such a violation are not present here. First, the officials involved were obviously not members of the Clintons' household. Nor did the officials have a "covered relationship" with the Clintons under the terms of subpart E. In addition, as noted above, there was an assumption here, arising from the unique nature of the Office of the President, that the contacts were made pursuant to a proper White House function. Under the circumstances, you could reasonably conclude that the contacts did not comprise preferential treatment under the standards of conduct.

It is unclear from the report what Mr. Altman's role in the disclosure of September 29 may have been. He stated that he does not recall having told Ms. Hanson to make the disclosure to Mr. Nussbaum and he does not recall having received Ms. Hanson's memorandum of September 30. Ms. Hanson's memorandum to him noting the completion of the task she felt he had directed does not provide assistance in analyzing what his state of mind might have been at the time any direction may have been given. We feel there is insufficient information to enable us to provide you with any further analysis of Mr. Altman's participation in this disclosure, if any.

#### 9/30 Phone conversation between Hanson and Sloan

Mr. Sloan recalls having received a telephone call from Ms. Hanson on September 30 during which she updated him on the press inquiry that had been received from Ms. Schmidt of The Washington Post. According to Mr. Sloan, she referred him to The New York Times article by Mr. Gerth dated in March of 1992. Mr. Sloan's notes dated 9/30, provided as Exhibit 6, appear to relate to that telephone conversation and would indicate that, by September 30, Mr. Sloan had learned information about aspects of the referral that would appear to be pertinent other than to the involvement of the Clintons.

Because Mr. Gerth's article was public information, that reference raises no issues under the standards of conduct. Since it appears that Mr. Altman may have faxed this article to Mr. Nussbaum in March of 1993, Ms. Hanson's reference to the 1992 article may have been provided simply to clarify that this was the information to which she had alluded in her statement to Messrs. Nussbaum and Sloan on the previous day.

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Information about the contents of the press inquiry from Ms. Schmidt may well have been nonpublic. Since Ms. Hanson was advised by Mr. Nussbaum to communicate further developments on press leaks to Mr. Sloan, we believe it is appropriate to attribute to her the same purpose she had in making the disclosure the prior day. Accordingly, we have no reason to believe that the disclosure was made for the purpose of furthering a private interest and our analysis under the standards of conduct would be the same as above. There does not appear to have been a violation of the standards of conduct. Mr. Sloan's notes would suggest that information other than that contained in the press inquiry from Ms. Schmidt may have been conveyed by Ms. Hanson. Insofar as any such disclosure provided the White House information about the manner in which the referral might involve the President, the information would appear to be sufficiently related to the press inquiry that it should be subject to the same analysis.

Ms. Hanson's possible disclosure of information other than that relating to the President would seem to go beyond what was necessary to achieve her stated purpose of assisting the White House with its press function. However, there is nothing in the report to suggest the involvement of any private interest that would have motivated her to make these particular disclosures and, therefore, we do not have reason to believe they violated the standards of conduct.

9/30 Fax from Hanson to Sloan

Ms. Hanson stated that she faxed a copy of the September 30 Early Bird to Mr. Sloan, although Mr. Sloan does not recall having received this transmission. The Early Bird was an internal RTC document prepared for a select group of senior managers by the public affairs office to alert them to the latest press inquiries. It carried the caveat "for internal use only." While Mr. Altman was Acting CEO, the Early Bird was distributed to a very small number of Treasury employees.

Without regard to the technicalities of whether it is or is not encompassed by a FOIA exemption, we believe the Early Bird contained nonpublic information that had not actually been disseminated to the general public and was not authorized to be made available to the public on request.

However, insofar as Ms. Hanson's transmission of the Early Bird served to advise the White House of press inquiries from Ms. Schmidt relating to Madison, that information appears to have been conveyed with the same purpose as the information conveyed in the previously discussed telephone conversation with Mr. Sloan on the same day and is subject to the same analysis. Consequently, there does not appear to have been a violation of the standards of conduct.

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**10/7 Phone conversation between Hanson and Sloan**

During the course of the telephone call that Ms. Hanson made on October 7, 1993, she advised Mr. Sloan of further developments with respect to press inquiries. Mr. Sloan's notes dated 10/7 are provided as Exhibit 6 and would indicate that press inquiries had been received from Mr. Gerth and Ms. Schmidt. This disclosure is subject to the same analysis as applies to Ms. Hanson's telephone discussion with Mr. Sloan on September 30 and does not appear to involve a violation of the standards of conduct.

**10/13 Phone conversation between DeVore and Gearan**

It is not clear who called to set up a meeting for the following day. Mr. DeVore stated he spoke to Mr. Gearan after he found out a meeting had been arranged at the White House. He suggested that Mr. Gearan attend. Mr. Gearan does not recall having received a call from Mr. DeVore. There is nothing in the record suggesting that information of any significance was imparted by Mr. DeVore in the course of the conversation, however, and, without regard to whose recollection may be more accurate, there does not appear to have been a violation of the standards of conduct.

**10/14 Meeting between DeVore, Steiner and Hanson from Treasury and Nussbaum, Gearan, Lindsey, Sloan and Eggleston from the White House.**

Essentially two types of information may have been conveyed to the White House at this meeting. The first was the existence and subject of the press inquiries Mr. DeVore had received. The second was the confirmation that a referral had, in fact, been made to the Department of Justice.

Most of the participants viewed this as Mr. DeVore's meeting, although he believed he was asked to attend. That is not crucial to the analysis. Mr. Lindsey's October 20 notes of the October 14 meeting are reproduced as Exhibit 9 to the IG report and the essential contents of Mr. Gearan's notes made during the meeting are set forth in the IG report. In most respects, the recollections of the participants are generally consistent with those notes. Most described the discussion as conducted by Mr. DeVore. Press inquiries received from Ms. Schmidt of The Washington Post and from the Associated Press were discussed. Mr. DeVore also described the information about Madison that he had received in an inquiry from Mr. Gerth of The New York Times. They generally recall that Mr. DeVore also described the information that Mr. Gerth was seeking. Mr. Gerth was seeking to ascertain the routing and status of a criminal referral which he understood had gone from the RTC's Kansas City office to RTC headquarters in

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Washington and believed was being held up and not released to the Department of Justice. Mr. Gerth also wanted to know who had endorsed four checks.

According to Mr. Lindsey's notes, Mr. DeVore reported that he had confirmed with the RTC that the referral had been forwarded to the U.S. Attorney in Little Rock. Mr. DeVore's recollection is that he first learned in the course of the White House meeting that the referral had actually been completed. Mr. Steiner recalls that Mr. DeVore did not know before the meeting that the referral had been made. Mr. Katsanos' recollection was that Mr. DeVore had called in advance of the meeting in order to get information as to whether the referral had been made, but the timing of Mr. Katsanos' follow-up call responding to Mr. DeVore is unclear from Mr. Katsanos' statement.

We know of no RTC policy that specifically protects from disclosure the fact that Mr. Gerth or Ms. Schmidt had made a press inquiry regarding Madison. The precise content of that inquiry, however, is a different matter. The fact that substantive information about the Madison referral may have been imparted by either press inquiry does not change the character of the underlying referral information. The referral information, including the information that a referral had been made, was nonpublic information. If an employee in the course of his official duties becomes aware of information he knows or reasonably should know is nonpublic Government information, the source of that information does not change its character.

There is a disagreement about what Mr. DeVore knew about the criminal referral prior to this meeting, independent of the information imparted through the inquiries from Mr. Gerth. There is also disagreement as to what information Mr. DeVore disclosed at the meeting. Assuming that he had nonpublic information and disclosed it, then the focus of the analysis would be on whether Mr. DeVore's disclosure of the information was a knowing, unauthorized disclosure made to further the private interests of another.

Most other participants perceived that the purpose for the meeting was to discuss how Mr. DeVore should respond to Mr. Gerth's inquiry and the meeting included a discussion of whether Mr. DeVore should confirm that the referrals had been made so that Mr. Gerth would not erroneously report that they were being held up in Washington. Mr. DeVore characterized his purpose somewhat differently. He stated he wanted to help Mr. Gerth if he could, and he wanted to make sure the White House knew the Gerth "investigation" was underway. He characterized the meeting as a "discussion of what the issues spanned."

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The discussion that occurred at the meeting seems to have been consistent with the perception of most other attendees that Mr. DeVore, if not actually seeking advice, was seeking to coordinate his press function with White House officials responsible for press inquiries on matters relating to Madison. Mr. Steiner stated that he and Mr. DeVore had noted that White House officials had been quoted or referred to in press accounts relating to Madison. It may have been that his purpose was, as he stated, to alert those officials to Mr. Gerth's inquiries. Mr. DeVore did not specifically articulate the purpose for which he intended that information to be used, but the discussion suggests that his purpose, at least in part, was to provide information that would be useful in responding to press inquiries. We saw nothing in the report to suggest he believed that the information would be used otherwise.

Mr. DeVore's statement that he also wanted to assist Mr. Gerth suggests that he may have had the additional purpose of obtaining information about the referral or the checks to answer Mr. Gerth's inquiries. As Assistant Secretary for Public Affairs and Public Liaison, Mr. DeVore seems to have felt that it was his responsibility to be as responsive as possible to this press inquiry. We do not believe, however, that Mr. DeVore's position at Treasury required him to be responsive to matters beyond the jurisdiction of the Department of the Treasury by disclosing information about this or any specific RTC referral. His disclosure to Mr. Gerth appears to have violated RTC's disclosure policy and, because of the lengths to which he went to obtain information for Mr. Gerth, it raises at least an appearance issue in our minds.

Mr. DeVore might have felt less necessity for the October 14 meeting had he appreciated the relationship between Treasury and the RTC. Mr. DeVore appears to have believed that the RTC was a bureau of the Department of the Treasury, rather than a separate agency. The policy of that separate agency was to neither confirm nor deny the existence of referrals to the Department of Justice. Adherence to this policy would have eliminated some of the necessity Mr. DeVore apparently perceived for coordinating his press function with White House press officials.

As Acting CEO of the RTC, Mr. Altman enlisted the assistance of several Treasury employees in performing his CEO function. According to Mr. Schmalzbach's memorandum at Exhibit 22, Mr. Altman, as Acting CEO of RTC, had authority under 12 U.S.C. § 1441a(b)(8)(E)(ii) to use the services of employees of any executive department and had the commensurate authority, as Deputy Secretary of the Treasury, to agree on Treasury's behalf to the RTC's use of Treasury personnel. These detail arrangements, however, were accomplished casually, without the reimbursement contemplated by the statute and without an appreciation by the Treasury personnel involved that they were thereby performing RTC



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rather than Treasury functions and subject to RTC policies and procedures. Ordinarily, press inquiries regarding RTC matters would have gone to RTC.

Mr. Schmalzbach's memorandum explains that Treasury's role with respect to the RTC relates primarily to the Secretary of the Treasury's position as Chairman of the Thrift Depositor Protection Oversight Board and, more recently, has been characterized by greater involvement in RTC management. Mr. Schmalzbach's memorandum further explains that, under 12 U.S.C. § 1441a(a)(8)(A), the Oversight Board is not to be "involved in case specific matters involving individual institutions, specific asset dispositions or generally the day-to-day operations of the RTC." The referral discussed in the October 14 meeting fall into the "case specific" category. It appears to us that Mr. DeVore, in his Treasury capacity, should not have involved himself or Treasury in the Madison referral. To the extent that he was enlisted by Mr. Altman to perform RTC duties involving case-specific matters, he should have made himself aware of RTC's policy to neither confirm nor deny referrals. Ms. Hanson indicated that Mr. DeVore acted so quickly in giving information about the referral to Mr. Gerth that he preempted her ability to research the issue of disclosure. She, too, seems to have misunderstood Mr. DeVore's and her own role, for she had undertaken an inquiry into Treasury's, rather than RTC's, disclosure policy.

Because Mr. DeVore is no longer a Federal employee, you have no responsibility to further analyze or address his conduct in this matter, although you may wish to ensure that your press office understands the nonpublic nature of criminal referrals. We do not believe Mr. Steiner's or Ms. Hanson's participation in the October 14 meeting violated the standards of conduct, not because of the type of information involved, but because they, like most of the White House participants, seemed to have viewed the purpose of the meeting as one of assisting the White House and Treasury in performing their respective press functions.

#### **12/29 Meeting between Ludwig and the President**

According to Mr. Ludwig's memorandum at Exhibit 20, during a Renaissance Weekend seminar, the President briefly asked whether Mr. Ludwig could provide advice and counsel on any legal/regulatory issues relative to the Whitewater matter. The President was not interviewed.

Mr. Ludwig does not appear to have provided any advice in response to the President's inquiry. His role as the recipient of this inquiry does not appear to involve a violation of the standards of conduct.

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**12/30 Telephone call from Ludwig to Sloan**

Mr. Sloan stated that he returned a call to Mr. Ludwig who explained that the President had mentioned something about Madison and he asked for newspaper articles on the subject in case it should come up in a subsequent conversation with the President. Mr. Sloan related the request to Mr. Eggleston, who in turn called Mr. Klein who was attending Renaissance weekend.

Mr. Ludwig's request for newspaper articles does not appear to involve a violation of the standards of conduct.

**12/29 Telephone call from Ludwig to Kennedy**

According to Mr. Ludwig, he placed a call to Mr. Nussbaum on December 29, but ended up talking with Mr. Kennedy to whom he stated his request to be provided with newspaper articles about Madison. Mr. Kennedy apparently referred him to Mr. Klein. Mr. Kennedy was not interviewed.

Mr. Ludwig's request for newspaper articles does not appear to involve a violation of the standards of conduct.

**12/29 Telephone call from Klein to Ludwig**

According to Mr. Ludwig he had a telephone conversation, or possibly spoke during a dinner at Renaissance Weekend, with Mr. Klein whom he described as being cautionary about any contact. Mr. Klein was not interviewed.

This conversation appears to have occurred after Mr. Eggleston telephoned Mr. Klein to inform him of Mr. Ludwig's conversation with the President and to ensure that Mr. Klein spoke to Mr. Ludwig so that he would have no further discussions of the Madison matter with the President. We assume this is what Mr. Ludwig meant by the description of Mr. Klein as "negative." Mr. Ludwig's receipt of this caution from Mr. Klein would not appear to involve a violation of the standards of conduct.

**12/30 Meeting between Ludwig, Klein and the President**

According to Mr. Ludwig, his encounter with the President and Mr. Klein in the hallway outside a Renaissance Weekend seminar involved a brief conversation in which they agreed that there would not be any discussion of the Madison Whitewater issue.

This discussion does not appear to involve a violation of the standards of conduct.

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**Jan 94 Telephone call from Ludwig to Williams**

Mr. Ludwig's call to Ms. Williams sometime after Renaissance Weekend involved him providing advice of a general nature that does not appear to involve a violation of the standards conduct.

**2/1 Telephone call from Altman to McLarty or Ickes**

Mr. Altman's call to either Mr. McLarty or Mr. Ickes on February 1 to arrange a meeting for the next day does not appear to involve a violation of the standards of conduct.

**2/2 Meeting between Altman and Hanson from Treasury and Nussbaum, Ickes, Williams and Eggleston**

This meeting was described by all participants as consisting of two distinct parts. The first part involved a briefing by Mr. Altman on the application of the statute of limitations to potential civil actions arising out of the failure of Madison. The second part involved a discussion by Altman of his possible recusal from matters involving Madison.

The participants' recollections as to the first part of the meeting do not deviate in any significant respect from the first eleven of the twelve talking points detailed in the document provided as Exhibit 12. Six of those talking points relate simply to the statute of limitations, its general application and the consequences that would flow as a matter of course with the expiration of the statutory period. This information is public rather than nonpublic information. Five of the eleven talking points relate to the application of the statute of limitations specifically to Madison. We assume that the date of the take-over of Madison was a matter of public record and that the February 28 date indicated in the third talking point as the date on which the statute of limitations would have run was public information ascertainable by factoring the takeover date into a statutorily prescribed computation. While the record does not specifically develop the point, we understand that the subjects of the first and eighth talking points were public information. On the basis of the record provided, we have no reason to believe that the information set forth in the tenth talking point regarding Mr. Ryan's and Ms. Kulka's positions was nonpublic information. And since it would seem to be little more than what a reasonable person would expect, we assume there was nothing of a nonpublic nature in the information in the eleventh talking point that the RTC analysis would be completed before the statutory period expires.

In the context of the briefing described above, Ms. Williams asked if the same information was going to be provided to private counsel for the parties. Mr. Altman said he thought so.

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There is nothing in the report that suggests that the first part of the meeting involved a disclosure of nonpublic information and, thus, we do not believe § 2635.703 is implicated. We also do not believe that Mr. Altman's briefing involved a violation of the appearance principle at § 2635.101(b)(14) as applied to § 2635.703. Where the information conveyed is public rather than nonpublic information, we view that single, highly relevant fact as decisive in applying the appearance principle, which assumes knowledge of the relevant facts by a reasonable person. His response to the question about a possible briefing of private counsel does not implicate the standards of conduct.

If you should disagree with our view as to the character of the information conveyed by Mr. Altman during the February 2 meeting, your analysis should involve the considerations discussed in connection with Ms. Hanson's disclosures to Messrs. Nussbaum and Sloan on September 29. In that event, however, there is one additional consideration that, as a practical matter, may be decisive unless you find that Mr. Altman disclosed nonpublic information not reasonably within the ambit of the talking points. Mr. Altman's disclosure of the information contained in the talking points and his participation in the meeting for the purpose of conveying that information had been cleared in advance with an ethics official by Ms. Hanson. Under § 2635.107(b), disciplinary action will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of an ethics official, provided that, in seeking such advice, he has made full disclosure of all relevant circumstances. The talking points, which we regard as the single most relevant circumstance, were shown to Mr. Foreman who, we believe, correctly advised that the information was public. As a technical matter, we believe Altman's participation should have been cleared by an RTC ethics official, but as discussed above in connection with the October 14 meeting, we are aware of the manner in which Treasury officials were used to assist Altman in fulfilling his RTC responsibilities and believe his reliance on the advice of Treasury's, rather than RTC's, ethics official, is inconsequential in this case.

The second half of the meeting involved a discussion prompted by Mr. Altman's statement that he was thinking of recusing or had decided to recuse. In evaluating Mr. Altman's conduct, we do not view as a matter of any consequence the differing perceptions of the meeting participants as to whether Mr. Altman held any conviction with respect to recusal at the outset of the discussion. We know of nothing that would have prohibited Altman from discussing, even publicly, his thoughts about recusal and do not believe his discussion of recusal involved a violation of the standards of conduct.

Because it was the topic of the discussion during the second part of the February 2 meeting, this may be an appropriate point at

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which to comment upon the subject of Mr. Altman's recusal and recusal in general. This Office concurred in the written advice Mr. Altman received from the RTC's Designated Agency Ethics Official which is provided as Exhibit 16 and we continue to regard that advice as correct. Mr. Altman's friendship with the President is not a covered relationship that would necessarily trigger the recusal procedures in § 2635.502 of the standards. It was within Mr. Altman's discretion to elect to use those procedures if he was concerned that the circumstances, including his relationship with the President, would raise a question concerning his impartiality. Under the applicable provisions of the standards of conduct, including § 2635.102(b), it was ultimately his decision to make, in consultation with the RTC's Designated Agency Ethics Official.

While we would never find fault with an individual's sensitivity to conflicts or appearances of conflicts, Mr. Altman's actions in this regard are somewhat confusing. "Recusal" is simply another word for nonparticipation and is used synonymously with the word "disqualification." One recuses or disqualifies by not acting in a matter. There is no need for actual recusal unless the circumstances would call for an employee's participation in some matter. As indicated in the memorandum Mr. Altman received from the RTC's Designated Agency Ethics Official, it is not necessary for an employee to decide whether to participate in any particular matter until such time as the matter comes before him. However, an employee can announce his intent to recuse in the event something should arise. This may have been what Mr. Altman thought he should do given questions that were being raised by Members of Congress.

It is important to note, however, that the impartiality provisions of the standards of conduct may not be relied upon by an employee as the basis for recusing himself from a matter because he simply does not wish to be involved or to exert the effort required. Under the standards of conduct, employees are expected to perform their duties fully unless there is a reason that their participation in a matter will result in an actual conflict, including an inability to act impartially, or will result in an appearance of conflict significantly detrimental to the public's legitimate perception of the fairness of the Governmental processes involved.

## 2/2 or 3 Telephone call from Altman to McLarty

Mr. Altman stated that he called Mr. McLarty to advise him that he had decided not to recuse for the time being. Mr. McLarty recalls only that Mr. Altman called him to acknowledge that the previous day's meeting had taken place and that they discussed his dilemma about whether to recuse. Just as Mr. Altman was free to discuss the issue of his possible recusal with anyone he chose, he was free to advise anyone, including Mr. McLarty, as to his state of mind on the subject. This does not appear to have involved a

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violation of the standards of conduct, nor would any conversation for the purpose of informing Mr. McLarty that the meeting had taken place. The above analysis with respect to Mr. Altman's participation in the February 2 meeting should apply to any discussion of the substantive content of the meeting he may have had with Mr. McLarty and, thus, the discussion does not appear to have involved a violation of the standards of conduct.

### **2/3 Meeting between Altman and Nussbaum**

During their brief encounter on February 3, Mr. Nussbaum recalls that Mr. Altman advised him that he probably wasn't going to recuse. Although Mr. Altman does not recall this discussion, any statements he may have made for the purpose of conveying his state of mind on the subject would not appear to have involved a violation of the standards of conduct.

### **2/3 Fax from Hanson to Nussbaum**

The document sent to Mr. Nussbaum on February 3 from a fax machine in Treasury's Office of the General Counsel is a copy of Mr. Leach's letter of the same date and its attachments. Ms. Hanson does not recall having sent the fax.

This document appears to have been made public by Mr. Leach on the date that it was dispatched and, thus, its transmittal to Mr. Nussbaum does not raise issues under the standards of conduct. An article entitled "Leach releases documents to show Whitewater's role" appears in the February 4, 1994 edition of The Washington Times. The article states that the letter was released the prior day, February 3, 1994, along with a staff memorandum and other documents, which we assume are the attachments to the letter. Copies of the checks that appear in the attachments were reproduced with the article. This transmission of a copy of Mr. Leach's letter does not appear to involve a violation of the standards of conduct.

### **2/3 and 4 Telephone calls between Hanson and Nussbaum**

We believe there were two telephone calls between Mr. Nussbaum and Ms. Hanson on February 2 or 3, although the list of contacts includes only one contact.

The first telephone call appears to have taken place on February 3. It is unclear who placed the telephone call. In the course of the ensuing conversation, Ms. Hanson told Mr. Nussbaum that she was continuing to research the issue of recusal. Mr. Nussbaum referred Ms. Hanson to the White House ethics expert, Ms. Nolan, and raised the possibility of turning the Madison civil case over to the Independent Counsel, whose charter covers civil matters.

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The discussion between Ms. Hanson and Mr. Nussbaum on the subject of recusal was in the nature of discussions that occur routinely between attorneys with a common interest in research being undertaken. Ms. Hanson's role as the recipient of Mr. Nussbaum's suggestion to contact Ms. Nolan and of his observation about possibilities raised by the Independent Counsel's charter does not appear to have involved a violation of the standards of conduct.

In what would appear to be another telephone conversation that took place on February 3 or 4, Ms. Hanson was informed by Mr. Nussbaum that the Independent Counsel's charter was published in that day's Federal Register. She also may have been asked by Mr. Nussbaum how Ms. Kulka was hired for her position as RTC General Counsel. If so, it would have been in this conversation that she explained to Mr. Nussbaum that Mr. Altman had made the decision to hire Ms. Kulka.

The receipt of information in the nature of that conveyed by Mr. Nussbaum does not implicate the standards of conduct and we are not aware of anything inappropriate in Ms. Hanson's explanation that Mr. Altman had hired Ms. Kulka. Ms. Hanson's role in this telephone conversation does not appear to have involved a violation of the standards of conduct.

#### **2/3 Meeting between Altman, Ickes and Eggleston**

In this brief meeting that took place in the White House, Mr. Altman recalls that he advised Mr. Ickes that he had decided not to recuse. Mr. Ickes recalls a discussion of this nature and believes Ms. Williams may have been present. Mr. Eggleston recalls that both he and Mr. Ickes were present. Although the precise number of participants is in doubt, this discussion by Mr. Altman of his state of mind does not appear to involve a violation of the standards of conduct.

#### **2/3 Meeting between Hanson, Ickes, Eggleston and Williams**

Had the scheduling worked out as intended by Mr. Altman, Ms. Hanson would have been a party to his meeting with Mr. Ickes and others. Because Ms. Hanson was late in arriving, Mr. Altman had already related his decision not to recuse and Ms. Hanson's only role in the discussion that took place in the White House on February 3 was as the recipient of and respondent to a question from Mr. Ickes about who knew she had advised Mr. Altman to recuse. Ms. Hanson's factual response to Mr. Ickes' question does not appear to involve a violation of the standards of conduct.

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**2/4 Telephone call from Foreman to Nolan**

Mr. Foreman's first telephone call to Ms. Nolan on February 4 involved a discussion of Mr. Altman's Vacancy Act appointment, application of the standards of conduct relevant to recusal and Mr. Foreman's own view of a personal appearance standard for recusal.

Mr. Foreman's discussion with Ms. Nolan was similar to the types of discussions that take place daily between executive branch ethics officials and the White House ethics expert on matters involving Presidential appointees. It does not appear to have involved a violation of the standards of conduct.

**2/4 Telephone call from Foreman to Nolan**

In the follow-up telephone conversation that took place on February 4, Mr. Foreman advised Ms. Nolan that he had contacted the RTC ethics official and had scheduled a meeting with OGE to discuss the recusal issue. There was some discussion of Mr. Leach's letter, portions of which would have been relevant to Mr. Foreman's and Ms. Nolan's discussions about recusal. As noted with respect to the telephone discussion that took place between Mr. Foreman and Ms. Nolan earlier the same day, the discussion was of a routine nature for employees with their respective ethics responsibilities. It does not appear to have involved a violation of the standards of conduct.

**2/8 Telephone call between Hanson and Nussbaum**

Ms. Hanson's thanks to Mr. Nussbaum for information about the Independent Counsel's charter does not appear to involve a violation of the standards of conduct.

**2/9 Telephone call from Foreman to Nolan**

In the February 9 follow-up on his previous telephone conversations with Ms. Nolan, Mr. Foreman asked whether the recusal to which Ms. Tigert had agreed in the course of her confirmation hearings should affect Mr. Altman's recusal decision. Mr. Foreman's call to coordinate recusal policy with the White House ethics expert does not appear to have involved a violation of the standards of conduct.

**Week of 2/14-18 Telephone call from Podesta or Stern to Steiner**

Mr. Steiner recalls that, during the week of February 14 through 18, he engaged in a telephone conversation with either Mr. Podesta or Mr. Stern and that one of them asked how the RTC had come to hire Mr. Stephens to handle the Madison case. Mr.



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Steiner's role as the recipient of this inquiry does not appear to have involved a violation of the standards of conduct. Messrs. Podesta and Stern were not interviewed.

**Week of 2/14-18 Telephone call from Steiner to Podesta or Stern**

Mr. Steiner recalls that, during the week of February 14 through 18, he responded to Mr. Podesta's or Mr. Stern's earlier inquiry by advising them that Mr. Stephens had been selected in accordance with normal procedures by a panel which reviews bids. This seems to be information about the award of an RTC contract that the agency would have provided to any member of the public. Thus, Mr. Steiner's response does not appear to have involved a violation of the standards of conduct.

**2/16 or 17 Meeting between Steiner and Stephanopolous**

Mr. Steiner recalls a discussion with Mr. Stephanopolous on the Crime Bill and other issues that took place in the White House on February 16. In the course of the conversation, he sought Mr. Stephanopolous' opinion about Mr. Altman's possible recusal. Mr. Stephanopolous does not recall the discussion. Since Mr. Altman was free to discuss his thoughts on recusal with whomever he pleased, his subordinate's participation in those discussions does not appear to involve a violation of the standards of conduct.

**2/23 Telephone call from Eggleston to Hanson**

In the telephone call placed by Mr. Eggleston during the week of February 14, he cautioned Ms. Hanson to be prepared with an appropriate answer in case Mr. Altman were to receive a question about the February 2 meeting during the Oversight Board hearings scheduled for the following week. Ms. Hanson's role as the recipient of this caution does not appear to involve a violation of the standards of conduct.

**2/23 Telephone call from Steiner to Griffin**

Mr. Steiner's telephone call on February 23 to advise the White House that Mr. Altman might announce during the next day's hearings that he was stepping down as CEO conveys information relating to a Vacancy Act Presidential appointment that the White House should be made aware of. It does not appear to involve a violation of the standards of conduct.

**2/23 Telephone call from Altman to Ickes**

Mr. Altman's call on February 23 to advise Mr. Ickes that he would announce during the next day's hearings that he would be stepping down as CEO upon the expiration of his Vacancy Act

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appointment was an appropriate communication for a Presidential appointee. Mr. Ickes' understanding of this telephone conversation was that Mr. Altman was talking about recusal. The call, in either event, does not appear to involve a violation of the standards of conduct.

**2/23 Telephone call from Ickes to Steiner**

The exchange that took place during this telephone conversation on February 23 was the result of a return call made by Mr. Ickes to continue the above conversation with Mr. Altman. The call was transferred to Mr. Steiner in Mr. Altman's absence. The only way we can reconcile the two accounts of the conversation that took place is to assume that, because of his involvement in prior recusal discussions, Mr. Ickes thought Mr. Altman's previous call had been about recusal, whereas Mr. Steiner understood correctly that Mr. Altman had been discussing "stepping down" at the termination of his Vacancy Act appointment. Mr. Steiner's role as the recipient of information to be conveyed to Altman does not appear to involve a violation of the standards of conduct.

**2/23 Telephone call from Hanson to Nussbaum**

Ms. Hanson stated that, pursuant to Mr. Altman's request, she called Mr. Nussbaum to tell him that Mr. Altman would be stepping down as CEO of the RTC at the end of March. This telephone call regarding the termination of Ms. Hanson's superior's Vacancy Act appointment does not appear to involve a violation of the standards of conduct.

**2/25 Telephone call from Steiner to Podesta**

Mr. Steiner recalls that the telephone call he made on February 25 was for the purpose of advising Mr. Podesta that Mr. Altman was again considering recusal. Mr. Steiner's role in conveying this information to Mr. Podesta does not appear to involve a violation of the standards of conduct.

**2/25 Telephone call from Steiner to Podesta**

According to Mr. Steiner, the second telephone call he made to Mr. Podesta on February 25 was for the purpose of reporting, after the fact, that Mr. Altman had announced his recusal. This factual report by Mr. Steiner does not appear to involve a violation of the standards of conduct.

**2/25 Telephone call from Stephanopolous to Steiner**

On February 25, while Mr. Altman was in his office, Mr. Steiner received a telephone call from Mr. Stephanopolous who expressed his concern about the manner in which Mr. Altman had

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announced his recusal and about the circumstances under which Mr. Stephens had been chosen. Mr. Steiner understood that Mr. Stephanopolous was concerned that Mr. Stephens' involvement in the Madison case was a conflict of interest, given Mr. Stephens' vocal criticism of the Administration. Mr. Steiner's response to the concern about Mr. Stephens was to explain to Mr. Stephanopolous how Mr. Stephens had been selected, a fact he had ascertained in order to respond to a prior inquiry from either Mr. Podesta or Mr. Stern. Mr. Steiner recalls that he advised Mr. Stephanopolous it would be unwise to raise the issue of conflicts any further.

Just as in response to the previous inquiry from Mr. Podesta or Mr. Stern on the same matter, the information that Mr. Steiner conveyed to Mr. Stephanopolous about Mr. Stephens' selection by the RTC seems to be information about a contract award that the agency would have provided to the public. Mr. Steiner's role in providing that information and any subsequent advice he may have offered regarding the Stephens contract would not appear to involve a violation of the standards of conduct.

#### **2/25 Telephone call from Stephanopolous and Ickes to Altman**

Mr. Altman learned in this telephone conversation with Messrs. Stephanopolous and Ickes on February 25 that they felt he should have advised the White House before announcing his recusal to a reporter. According to Mr. Altman, he was also asked about Mr. Stephens' appointment. He did not know who Mr. Stephens was and the ensuing conversation involved Mr. Stephanopolous explaining Mr. Stephens' background. Mr. Altman's participation in this telephone conversation does not appear to involve a violation of the standards of conduct.

#### **2/25 Telephone call from Eggleston to Hanson**

Ms. Hanson's role in this telephone call received from Mr. Eggleston on February 25 was as the recipient of an inquiry as to whether Mr. Stephens was the lead attorney for the law firm representing RTC on the Madison matter. Her response that she would check into the matter does not appear to involve a violation of the standards of conduct.

#### **2/25 Telephone call from Lindsey to Altman**

During the telephone call Mr. Lindsey placed on February 25, Mr. Altman was asked about a press inquiry regarding Mr. Altman's possible receipt of instructions to provide a briefing to the President's personal lawyer. He told Mr. Lindsey about the February 2 meeting, that he had not received any such instructions and that no such briefing had taken place. Mr. Altman was asked by Mr. Lindsey to handle the reporter's inquiry. Mr. Altman's explanation of what occurred during and as a consequence of the

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February 2 meeting does not appear to involve a violation of the standards of conduct.

**2/25 Telephone call from Nolan to Foreman**

In the course of a telephone conversation on another matter that occurred in February 25, Mr. Foreman suggested that Ms. Nolan might wish to see Mr. Altman's testimony from the prior day and he explained that Mr. Altman had been given Mr. Kusinski's memorandum on refusal. Neither the suggestion Mr. Foreman made nor the explanation he provided appears to involve a violation of the standards of conduct.

**3/1 Telephone call from Podesta to Altman**

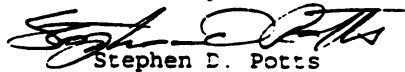
In the telephone conversation that occurred on March 1, Mr. Altman received an inquiry from Mr. Podesta regarding the fact that, in his testimony on February 24 he had not mentioned the two Fall meetings between Treasury and White House officials. This discussion, which also may involved Ms. Hanson, raises no standards of conduct issues.

**Additional contacts**

The chronology of contacts provided by Mr. Cutler as part of his testimony before the House Banking, Finance and Urban Affairs Committee on July 16 indicates that, in the days preceding the February 24 hearing, there may have been two additional contacts between Messrs. Steiner and Podesta that are not reflected in the report. One contact may have involved Mr. Steiner advising Mr. Podesta that Mr. Altman was considering announcing in his opening statement at the hearing that he expected to step down as CEO of the RTC on March 30. Any such contact would appear to be similar to that which took place between Mr. Steiner and Ms. Griffin on February 23 and would not seem to involve a violation of the standards of conduct. The other contact may have involved Mr. Podesta speaking to Mr. Steiner to ensure that Mr. Altman was adequately prepared for any questions about the February 2 meeting that might arise during the hearing. Any such contact would appear to be similar to that which occurred between Ms. Hanson and Mr. Eggleston on February 23 and would not appear to involve a violation of the standards of conduct.

I trust this analysis is of use to you in reaching your own conclusions.

Sincerely,

  
Stephen D. Potts  
Director

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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

STEVEN S. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL  
 HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

January 10, 1994

Mr. Roger Altman  
 Acting Chief Executive Officer  
 Resolution Trust Corporation  
 801 17th Street N.W.  
 Washington, D.C. 20434

Dear Mr. Altman:

Enclosed please find a copy of a letter we sent today to Attorney General Reno. We would appreciate it if you would consider the request we made therein with respect to our concern that the running of the statute of limitations may prevent the final resolution of all allegations relating to Madison Guaranty Savings and Loan.

Thank you.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

James B. Duke

Bill Clinton  
Larry Pressler

William V. Roth, Jr.  
Bob Michel

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 HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

January 11, 1994

Honorable Janet Reno  
 Attorney General  
 U.S. Department of Justice  
 Washington, D.C. 20530

Dear Attorney General Reno:

We regret that you have rejected Congressional requests to appoint a special counsel to examine the allegations of potential misconduct that have recently surfaced concerning Madison Guaranty Savings and Loan ("Madison") and the Whitewater Development Corporation ("Whitewater").

Of course, we express no opinion as to whether any of the allegations are, in fact, true. Nor do we express any view as to who may, or may not, be involved in any misconduct. Nevertheless, we are writing to urge you to act immediately to seek agreements to toll the relevant civil and criminal statutes of limitations, which are now expiring.

While we have our differences with you over whether to appoint a special counsel under your authority, or an independent counsel following reauthorization of the Independent Counsel Act, we trust that we are pursuing a common objective: a fair investigation conducted in an objective, impartial and independent fashion. The American people, the President, and Mrs. Clinton deserve nothing less.

We are concerned, however, that the goal of fairness and the opportunity for the President and Mrs. Clinton to dispel any doubts about their lack of personal involvement in any of the alleged misconduct may be hampered by the frequent and unfortunate delays in this case. As you are aware, Madison failed and was taken over by the Resolution Trust Corporation in 1989; many of the allegations concerning Whitewater stem from the mid-1980s. However, due to various factors, including the delayed recusal of key officials in your Department and the U.S. Attorney in Little Rock, these allegations have not been pursued in an expeditious manner. As a result, immediate action is now critical.

Under the Federal Deposit Insurance Act, the RTC has only a five year period in which to bring a civil suit for fraud, starting from the date it became the

conservator or receiver of a failed institution. Thus, the ability of the RTC to take civil action may expire as early as March, 1994. The statute of limitations for criminal actions involving bank fraud is 10 years from the date of the occurrence of the criminal activity.

In order to resolve any and all questions regarding Madison and Whitewater, we urge you and the RTC to seek voluntary agreements with all relevant parties, including the President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward, and the Rose Law Firm, to toll the running of the statutes of limitations -- in other words, to seek their agreement to voluntarily waive these defenses. These agreements will allow time for a complete and independent investigation and permit the orderly operation of the legal and judicial processes. It will also remove any doubt that the above named parties may seek to use the statute of limitations as a procedural defense. Furthermore, it will reassure the American public that anyone implicated in any wrongdoing will answer these allegations on their merits.

Attorney General Reno, thank you for your consideration of this request.

Sincerely,

Bob Dale

Alfonse D'Amato

Jan Meyers

James Linn

Bill Clinton

Harold Fick

Larry Pressler

Bob Michel

cc: Roger Altman  
Resolution Trust Corporation

DONALD W. RIEGLE JR. MICHIGAN CHAIRMAN

PAUL S. SARABANUS MARYLAND  
 CHRISTOPHER J. BOND CONNECTICUT  
 JIM SASSER TENNESSEE  
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 ROBERT F. BENNETT UTAH  
 WILLIAM V. ROTH JR. OKLAHOMA  
 PETE V. DOMENICI NEW MEXICO

STEVEN B. HARRIS STAFF DIRECTOR AND CHIEF COUNSEL  
 HOWARD A. HENELL REPUBLICAN STAFF DIRECTOR

## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

January 28, 1994

The Honorable Donald W. Riegle  
 Chairman  
 Committee on Banking, Housing and Urban Affairs  
 United States Senate  
 Washington, D.C. 20510

Dear Mr. Chairman:

Notwithstanding the recent appointment of a special counsel to investigate potential criminal wrongdoing in connection with Madison Guaranty, a failed savings and loan, the constitutional responsibility of Congress to consider the serious questions of public and regulatory policy raised by this controversy remains.

Last December Senator D'Amato requested Committee action with respect to this issue. In the intervening time, numerous questions that fall within our Committee's legislative and oversight jurisdiction have gone unanswered. A review of the limited information that is publicly available indicates a variety of germane issues that command the Committee's attention. We believe that the Banking Committee would be derelict in its duty if it does not address important issues, such as:

- Is the RTC continuing its investigations into Madison and what is the status of any such investigation? How is it that the RTC was able to prepare criminal referrals as early as October 1992, but is unable to follow-up with a civil proceeding? Will the RTC complete any current investigations prior to the expiration of the statute of limitations one month from now?
- Did the RTC act as quickly and effectively as possible to ensure that the Madison bail-out cost the taxpayers as little as possible?



- Did the principal shareholders or officers of Madison direct Madison resources into other business ventures in which they were involved?
- What caused the break-down of the FDIC's procedures for detecting and addressing conflicts-of-interest when the Rose Law Firm was retained to sue Frost and Co.?
- Why did the FDIC agree to settle its \$60 million case against Frost and Co. for \$1 million, an amount that is allegedly less than the limit of the firm's malpractice insurance coverage?

This Committee has a solid and proud record of addressing concerns relating to the safety and soundness of insured depository institutions. We believe the Committee has the duty to review thoroughly these and other relevant issues and to obtain information that will be useful as the Committee continues to consider new legislative initiatives and to improve the existing legislative framework to ensure the protection of depositors and taxpayers.

In light of this, pursuant to Rule 26.3 of the Standing Rules of the Senate, we request that you convene a special meeting of the Senate Committee on Banking, Housing and Urban Affairs to enable the full Committee to consider appropriate Committee action in connection with Madison. We believe the Committee must exercise its jurisdiction and examine the circumstances and events surrounding Madison's operations and failure.

Sincerely,



Phil Gramm



Alfonse D'Amato

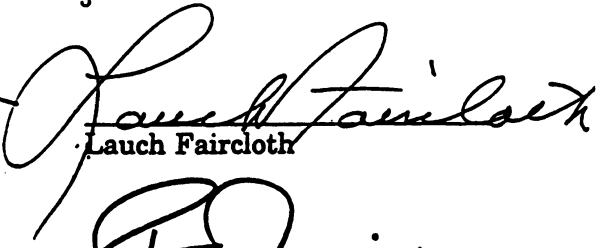


Connie Mack



Christopher Bond

  
Robert Bennett

  
Lauch Faircloth

  
William Roth

  
Pete Domenici

To: Ben Nye  
 From: Peter E. Knight  
 Re: Memorandum relating to meetings with Congressional  
 offices relating to Madison Guaranty  
 Date: March 3, 1994

Attached to this memorandum is a list of meetings with Congressional staff relating to Madison. The meetings with Rep. Leach's staff dealt with document requests, and the RTC's parameters in dealing with requests from an individual member of Congress.

The January 24 meeting with Senator D'Amato's staff is covered accurately in Jean Hanson's draft memorandum to Deputy Secretary Altman, but, after discussing this with Jack Ryan, I believe the following points should be added to put it in perspective.

The meeting with the Senator's staff dealt primarily with how the RTC would handle the Senator's investigation and any resulting document requests. It is common practice at the RTC to have such a meeting with congressional staff as it is embarking on an investigation of RTC-related matters. We made the point that his requests would be treated as a request from an individual Senator, and not as an official Committee investigation. Within in the course of this discussion, we covered such concerns as not violating the Privacy Act, not compromising pending civil or criminal matters. I would not characterize the meeting as a briefing on the status of the Madison civil investigation.

cc: Jack Ryan  
 Ellen Kulka

3-5-94 - to File: Pursuant to Ellen Kulka's  
 recommendation. This was not sent. She said she spoke  
 w/ Jean Hanson on 3/4 + indicated by covers  
 that possibly misrepresents the 1/24 meeting -  
 Ellen told me Jean agreed.

11900

*[Signature]*

000170

## MEMORANDUM FOR DEPUTY SECRETARY ALTMAN

FROM: JEAN E. HANSON

SUBJECT: Conversation with Peter Knight

Peter Knight had not had an opportunity to prepare a chronology of RTC contacts with Senator D'Amato's staff. However, he gave me the following information which I am asking him to confirm.

Monday, January 24, 1994

- Peter Knight was contacted by Senator D'Amato's staff to discuss the Madison Guaranty situation. A meeting was requested with the heads of PLS and investigations; that was declined. This was the first contact from D'Amato's staff on Madison Guaranty.
- Later that day, Jack Ryan and Peter Knight met with Senator D'Amato's staff as requested.
  - D'Amato's staff present were: Howard Mynnell, staff director; Ray Natter, general counsel; and Doug Nappi.
  - The discussion focused on document production, i.e., what the RTC believed could and could not be provided.
  - There were also a discussion of the statute of limitations on Madison Guaranty and when it was expected to expire. Ray Natter suggested that the statute of limitations would not expire until August 1994. He was told the RTC would look into that and discuss it further with him.

Later that week (Wednesday - Friday, January 26-28)

- Peter Knight held a conference call with Mark Gabrellian of the RTC legal staff and Ray Natter to discuss the expiration of the statute of limitations. After discussing the legal issues, Mr. Natter agreed that the statute of limitation on Madison Guaranty would expire prior to August. The exact date of the expiration had a three day time span (2/28 - 3/2) because of historical actions in connection with

002256

354

000175

Peter Knight

- Wanted to express his  
Concern that it not be used  
to ~~show~~ show that it was a briefing  
on Madison  
Peter wants to be sure that this meeting is  
characterized as a briefing on Madison.
- Her memo accurately reflects my  
conversation with her. -  
- according to Jack and Peter.

~~was~~ was there anything you needed to add to  
this to make it complete.

3510  
M
  
002261

**FRIED, FRANK, HARRIS, SHRIVER & JACOBSON**

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1001 PENNSYLVANIA AVENUE, N.W., SUITE 900  
WASHINGTON, DC 20004 - 2505  
202 - 638 - 7000  
FAX - 202 - 638 - 7000

October 7, 1994

**BY HAND**

Ms. Kelly Cordes  
Chief Clerk  
Committee on Banking, Housing and Urban Affairs  
Senate Dirksen Office Building, Room 534  
Washington, D.C. 20510-6075

Dear Ms. Cordes:

The following responses are provided on behalf of Jean Hanson in connection with a series of seven questions posed by Senator Bond and transmitted to Ms. Hanson under cover of Senator Riegle's letter of September 28, 1994.

**Questions from Senator Bond**

*Question 1:* To whom did you show copies of the deposition transcript of your deposition taken by the Treasury/RTC? On what dates did you show others this transcript.

*Answer 1:* I obtained a copy of the transcript of my July 11 testimony before the Inspectors General of the Treasury and the RTC on July 15, 1994, and a transcript of my July 15 testimony on July 18 or 19, 1994. Other than to my counsel, I did not show copies of those transcripts to anyone. My counsel shared the transcripts with other counsel pursuant to privileged arrangements.

*Question 2:* Did you, on October 14, 1993, obtain from Mr. Glion Curtis a copy of a legal opinion summarizing the criminal referrals.

*Answer 2:* No.

*Question 3:* Did you fax a copy of document X001356 to Bruce Lindsay or Harold Ickes?

*Answer 3:* I do not have any document marked X001356 and am therefore unable to respond to your question.

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON

Letter to Ms. Kelly Cordes  
Re: Questions to Jean Hanson from Senator Bond  
October 7, 1994

Page 2

*Question 4:* Please provide a typed transcription of document 6271.

*Answer 4:* A typed transcription of document 6271 follows:

9/27

Not an RTC official — have never  
functioned as such. Because there  
has been no general counsel

Briefed by Bill Roelle — He called  
called me from time to  
time on things that might  
relate to press inquiries but  
not substantive advice.

Very first notice — knew nothing  
of Madison  
— Had not asked to be told

Talked to Roger — recalled name.  
both recalled NY Times Article

*Question 5:* Please provide a typed transcription of document 6267-6269. Are there redactions in this document? If there are redactions, on what grounds were the redactions made?

*Answer 5:* A typed transcription of documents 6267, 6268 and 6269 follows. These documents have not been redacted.

**Document 6267**

Press inquiries & that political influence trying to kabosh on  
crm referrals. Saying: not true.  
Deep background.

No influence whatever was exerted

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON

Letter to Ms. Kelly Cordes  
Re: Questions to Jean Hanson from Senator Bond  
October 7, 1994

Page 3

**Document 6268**

Institutional, administration  
lawyers must have the ability

**Document 6269**

White House liaison  
Improper to pass on info.

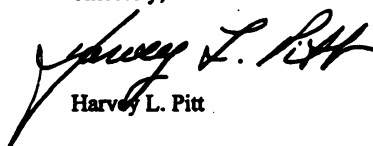
**Question 6:** Did you discuss with anyone whether Francine Kerner should assist the Office of Government Ethics in the investigation requested by Secretary Bentsen? If the answer is yes, with whom did you discuss this issue, and when did this/these discussion/s take place?

**Answer 6:** No, I did not discuss with anyone whether Francine Kerner should assist the Office of Government Ethics in the investigation requested by Secretary Bentsen.

**Question 7:** Is document 6267-6269 redacted? If so, what is the basis for the redactions?

**Answer 7:** Documents 6267, 6268 and 6269 have not been redacted.

Sincerely,



Harvey L. Pitt



To: L. Richard Iorio@INVEST-1@RTCKC **AUGUST 1, 1994**  
 Cc: Lee O. Ausen@INVEST-1@RTCKC  
 Jane M. Jankowski@OLA@RTCKC

From: L. Jean Lewis@INVEST-1@RTCKC  
 Subject: #7236 Madison Guaranty Savings  
 Date: Wednesday, October 6, 1993 11:01:54 EDT  
 Attach:  
 Certify: N  
 Forwarded by: James R. Dudine@Oper-inv@RTCDC

-----

Comments by: James R. Dudine@Oper-inv@RTCDC  
 Forwarded to: Stephen J. Katsanos@Comm@RTCDC  
 Comments:

Should we make an issue of this with the POST brass?

-----

Comments by: L. Richard Iorio@INVEST-1@RTCKC  
 Forwarded to: Dennis M. Cavinaw@EXEC@RTCKC  
 James G. Thompson@EXECFSC@RTCKC  
 James R. Dudine@Oper-inv@RTCDC  
 Julie F. Yanda@LEGAL-PLS@RTCKC  
 Comments:

File We are planning to mail the criminal referrals on Friday  
 10-8-93. PLS review is proceeding on schedule. Thanks

----- [Original Message] -----

Based on our conversation of yesterday evening, the following is a recap of what transpired when Washington Post report Sue Schmidt showed up at my front door.

She arrived around 7:15, I allowed her to step inside my door, I listened to what she had to say, and then escorted her out the door at approximately 7:30. When I showed her out the door, my parting comment was "when you contacted me last Thursday, I told you that I had no comment, and made every effort to be polite in doing so. What you have done this evening is the most unprecedented breach of professional courtesy that I've ever witnessed, so I will say this one more time, and one more time only. Do not contact me again at my office, or at my home. I have no comment on your investigation and will not answer any of your questions. Do not waste anymore of my time or yours."

She asked a number of questions, and made a number of comments, to all of which I responded with "no comment" or said nothing. I did, however, listen to what she had to say, and it was significant. I believe that she has the gist of the referral sent last year, and that she intends to pursue the story.

She wanted to know:

1) if I was aware of the transaction between Whitewater Development and International Paper Realty (this is not the topic of one of the referrals,

but is something that I looked at writing a referral on...she had significantly more information than I did, which I believe was provided by Jim McDougal, whom she said she interviewed yesterday)

she should continue looking at all of McDougal's other companies, specifically naming Madison Marketing, Great Southern Land Company, and a number of other companies identified in referral C0004.

3) if I was aware that Seth Ward was Webb Hubbel's father in law

4) if I was aware that three senior partners at the Rose firm (that I would prefer not to identify thru e-mail but will provide verbally if asked) "ran off" senior partner Joe Giroir due to the fact that he was grossing more firm profits than they were (she cited a bonus amount of \$500,000)

5) if I was frustrated that my "work product was stymied and road blocked at certain federal levels", which seems to indicate that she knows that referral C0004 was held up in Washington for 9 months before it went sent back to Little Rock.

6) if the late "Vince Foster was tied to any of this".

7) if I was aware that Jeff Gerth of the New York Times was reopening his investigation of the Whitewater story he wrote last year. She then added that he would probably be the next reporter to appear on my doorstep. I thanked her for the heads up.

8) she requested my unlisted home phone, and I declined.

All of this is just an encapsulated version of her comments, which were more informative than what I've outlined here. I'll be glad to discuss this further at your request. Please let me know if you have any questions.

000111

**Talking points for Roger Altman: informational meeting with  
Mack McLarty 2/2/94**

o RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

o Under the RTC Completion Act, the statute of limitations has been extended to five years. The extension is retroactive for claims involving fraud or intentional misconduct resulting in unjust enrichment or substantial loss to the institution.

o The retroactive five-year extension relating to Madison Guaranty will expire on February 28, 1994.

o The only claims that could still exist as a result of the five year retroactive extension are those relating to fraud or intentional misconduct. All other claims, including any based on negligence or gross negligence, have lapsed.

o If any claim relating to fraud or intentional misconduct does exist, the RTC has three choices: (1) allow the claim to lapse on 2/28/94; (2) commence litigation to preserve it; or (3) enter into a tolling agreement with the relevant party to extend the statute of limitations, giving the RTC additional time to investigate and determine whether to commence litigation.

o The RTC can enter into a tolling agreement only if the other party agrees.

o There must be a basis to bring a lawsuit; frivolous claims will be dismissed and can subject the attorneys bringing the suit to sanctions by the court.

o The RTC is currently reviewing the Madison Guaranty situation to determine if any claims exist under the Completion Act. (See 2/1/94 letter to Dole.)

o If it is decided that any claim does exist, the RTC will have to determine which of the three alternatives to choose.

o The work is being supervised by Ellen Kulka, the new General Counsel, and by Jack Ryan, the new interim Deputy C.E.O.

o It is not certain when the analysis will be completed, but it will be before February 28.

o I have decided that I will recuse myself from the decision making process, as interim C.E.O. of the RTC, because of my relationship with the President and Mrs. Clinton.

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002227

STATEMENT ON WASHINGTON, D.C. INVESTIGATIONS

The Washington, D.C. Office of the Independent Counsel has completed two separate investigations:

(1) An investigation to determine whether the cause of the death of Vincent W. Foster, Jr. was a suicide or a homicide, and if it was a suicide, whether any matter related to the Clintons' involvement in the Whitewater Development Company ("Whitewater"), Madison Guaranty Savings and Loan ("Madison Guaranty") or Capital Management Services ("CMS") played any role in his death; and

(2) An investigation to determine whether a criminal prosecution should be brought against anyone for obstruction of justice or a violation of any other federal statute for conduct arising out of a series of meetings and other contacts between White House and Treasury Department officials from September 1993 through March 1994.

A third investigation, to determine whether a criminal prosecution should be brought against anyone for obstruction of justice or a violation of any other federal statute for conduct involving the handling of Mr. Foster's documents in the White House immediately following his death, is in its final stages and should be completed shortly.

We announce today the results of the two completed investigations. We are satisfied that all of the issues involved in these investigations have been fully and thoroughly investigated. In total, attorneys from this Office and agents of

the Federal Bureau of Investigation ("FBI") questioned 188 persons and reviewed and analyzed thousands of documents. Other investigative steps were also undertaken.

I am extremely grateful for the commitment and effort of the lawyers on my staff in Washington; Roderick C. Lankler, Mark J. Stein and Carl J. Stich, Jr., and the FBI agents who have worked with us, which has enabled us to conduct and complete these two investigations in a period of less than four months.

#### The Foster Death Investigation

At this time, we are issuing a complete report on the death of Vincent Foster. This report concludes that on July 20, 1993, Mr. Foster committed suicide in Fort Marcy Park, Fairfax County, Virginia. The report lists a number of factors that may have contributed to his suicide, and finds no evidence that matters relating to Whitewater, Madison Guaranty or CMS played any role in his death. The investigation into Mr. Foster's death was not a grand jury investigation. It consisted of interviews by attorneys and FBI agents working with this Office, and of extensive forensic and pathological laboratory analyses. Accordingly, there are no grand jury secrecy restrictions on the public issuance of a full report, and we are making public such a report at this time.\* We

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\* Rule 6(e) of the Federal Rules of Criminal Procedure provides, in relevant part, "(2) A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the government, or any person to whom disclosure is made [pursuant to a specified exception] shall not disclose matters occurring before the grand jury, except as otherwise provided for in these rules. . . . A

will submit a copy of this report to the division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, as part of the report required by Title 28, Code of Federal Regulations, Section 600.2(b)(1).

White House/Treasury Contacts Investigation

On February 24, 1994 Deputy Treasury Secretary Roger Altman disclosed in testimony before the Senate Banking Committee that he and Treasury General Counsel Jean Hanson had met with members of the White House staff on the subject of the Resolution Trust Corporation's ("RTC's") investigation of Madison Guaranty Savings & Loan ("Madison Guaranty"). In the days and weeks that followed that testimony, disclosures were made about additional meetings and contacts that occurred from September 1993 through February 1994 between Treasury representatives and White House staff on the subject of Madison Guaranty. Following these disclosures, Members of Congress, the press and other individuals raised questions about what occurred at these meetings and whether there was any attempt by members of the Administration to improperly influence the RTC investigation.

As a result of these disclosures and the issues that arose from them, this Office conducted a grand jury investigation to determine whether any Government official did anything during or following these contacts that amounted to obstruction of justice

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knowing violation of Rule 6 may be punished as a contempt of court."

under the federal criminal laws.

The purpose of this investigation was to determine whether the evidence established that any of those contacts, viewed individually or collectively, amounted to a violation of law by anyone involved. A total of more than twenty different contacts, either face-to-face meetings or telephone conversations, were investigated. The investigation focused on whether in the course of any of these contacts, any individual obstructed justice, attempted to obstruct justice, or conspired with others to obstruct justice, as defined in Title 18, United States Code, Section 1505. That section provides, in pertinent part:

Whoever corruptly . . . influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States . . . [s]hall be fined not more than \$5,000 or imprisoned not more than five years, or both.

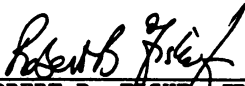
After a review of all the evidence, we have concluded that the evidence is insufficient to establish that anyone within the White House or the Department of the Treasury acted with the intent to corruptly influence an RTC investigation. Therefore, the evidence of the events surrounding the contacts between the White House and the Treasury Department does not justify the prosecution of anyone for a violation of Section 1505. We have also concluded that the evidence does not justify a criminal prosecution for violation of any other federal statute.

Because this investigation was conducted almost entirely through the use of a federal grand jury sitting in the District of

Columbia, we are precluded by Rule 6(e) of the Federal Rules of Criminal Procedure from publicly disclosing anything more than the results of the investigation. We will submit a full report of this investigation to the Division of the Court of Appeals for the District of Columbia referred to in Title 28, United States Code, Section 49, pursuant to Title 28, Code of Federal Regulations, Section 600.2(b)(1).

In reaching this conclusion, this Office is not determining anything other than that the evidence does not justify a criminal prosecution. We express no opinion on the propriety of these meetings or whether anything that occurred at these meetings constitutes a breach of ethical rules or standards. Prior to the issuance of our grand jury subpoenas, Secretary of the Treasury Lloyd M. Bentsen, Jr. had asked the Office of Government Ethics ("OGE") to conduct an investigation into these meetings. That investigation was suspended, at our request, when we began our investigation. We have advised Secretary Bentsen that we have completed our investigation, and we understand that the OGE investigation will now go forward.

June 30, 1994

  
ROBERT B. FISKE, JR.  
Independent Counsel



00142

gk

**Outline of RTC/Madison Guaranty Issues:**

o RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

o Under the RTC Completion Act, the statute of limitations has been extended to five years. The extension is retroactive for claims involving fraud or intentional misconduct resulting in unjust enrichment or substantial loss to the institution.

o The retroactive five-year extension relating to Madison Guaranty will expire on February 28, 1994.

o The only claims that could still exist as a result of the five year retroactive extension are those relating to fraud or intentional misconduct. All other claims, including any based on negligence or gross negligence, have lapsed.

o If any claim relating to fraud or intentional misconduct does exist, the RTC has three choices: (1) allow the claim to lapse on 2/28/94; (2) commence litigation to preserve it; or (3) enter into a tolling agreement with the relevant party to extend the statute of limitations, giving the RTC additional time to investigate and determine whether to commence litigation.

o The RTC can enter into a tolling agreement only if the other party agrees.

o There must be a basis to bring a lawsuit; frivolous claims will be dismissed and can subject the attorneys bringing the suit to sanctions by the court.

o The RTC is currently reviewing the Madison Guaranty situation to determine if any claims exist under the Completion Act. (See 2/1/94 letter to Dole.)

o If it is decided that any claim does exist, the RTC will have to determine which of the three alternatives to choose.

o The work is being supervised by Ellen Kulka, the new General Counsel, and by Jack Ryan, the new interim Deputy C.E.O.

o It is not certain when the analysis will be completed, but it will be before February 28.

154



002228

THE WHITE HOUSE  
WASHINGTON

Y000001

February 22, 1993

## MEMORANDUM FOR WHITE HOUSE STAFF

FROM: BERNARD W. NUSSBAUM  
COUNSEL TO THE PRESIDENT   
  
STEPHEN R. NEUWIRTH   
ASSOCIATE COUNSEL TO THE PRESIDENT  
  
RE: Prohibited Contacts with Agencies

It is important that all members of the White House staff recognize that there are significant restrictions on the kinds of communications a member of the White House staff may have with independent regulatory agencies, Executive agencies, and their components. These restrictions apply with particular force where agencies have an adjudicative, investigative, enforcement, intelligence, or procurement function. Violations of these restrictions may result not only in significant embarrassment to the individual involved and the White House, but in legal sanctions against the individual as well.

The following discussion sets forth the restrictions applicable when staff are in contact with an agency. It is critical that you review this material carefully. If you have any questions, please consult the Counsel's office before making any contact with an agency.

A. Contact with regulatory, investigative, intelligence, and procurement agencies.

1. Regulatory Agencies: The cases that come before these agencies are of two general types: rulemaking and adjudicative. Both normally involve high stakes, are very complicated, and are extremely important to the parties concerned.

There is generally no justification for any White House involvement in particular adjudicative or rulemaking proceedings at any agency. Therefore, as a general rule, no member of the staff should contact (a) any agency in regard to any adjudicative matter pending before that agency, or (b) any independent agency in

- 2 -

Y000002

regard to any rulemaking pending before that agency. For rulemaking proceedings at Executive agencies, any staff member considering contacting any agency about such rulemaking should first consult with the Counsel's office. In all events, no such contacts with Executive agencies should be considered, nor will they be approved, if they imply preferential treatment or undue influence on the decision-making process.

Should you receive any inquiries with regard to pending regulatory or rulemaking matters, you should refer the inquiring party to the agency involved and express no opinion on the issues raised. White House staff members should avoid even the mere appearance of interest or influence.

Should an occasion arise in the course of your duties where it appears necessary to discuss general policy matters with the staff of an independent regulatory agency, you should first consult with the Counsel's office to determine whether such contact would be appropriate under the circumstances. Such clearance is not required before contacting Executive agencies on administrative, or purely executive or legislative, matters. But such clearance is required where any adjudicative, regulatory or procurement action is involved.

The following agencies, while not an exhaustive listing, are regarded by the Justice Department as independent and should not be contacted by White House staff (except for routine referrals of mail or administrative matters) without prior clearance from the Counsel's office:

- Commodity Futures Trading Commission
- Consumer Product Safety Commission
- Federal Communications Commission
- Federal Deposit Insurance Corporation
- Federal Election Commission
- Federal Maritime Commission
- Federal Reserve System
- Federal Trade Commission
- Interstate Commerce Commission
- National Credit Union Administration
- National Labor Relations Board
- National Transportation Safety Board
- Nuclear Regulatory Commission
- Occupational Safety and Health Review Commission
- Securities and Exchange Commission
- U.S. International Trade Commission

Y000003

- 3 -

The following agencies, or components of Executive departments or agencies, have significant regulatory or adjudicative functions. Accordingly, they should not be contacted with respect to the exercise of those functions without prior clearance from the Counsel's office (which clearance generally will not be given for adjudicative actions and will be considered only on a case-by-case basis for regulatory actions):

Environmental Protection Agency  
 Equal Employment Opportunity Commission  
 Federal Aviation Administration  
   (Transportation)  
 Federal Energy Regulatory Commission  
   (Energy)  
 Federal Labor Relations Authority  
 Food and Drug Administration  
   (HHS)  
 Foreign Claims Settlement Commission  
   (Justice)  
 Immigration and Naturalization Service  
   (Justice)  
 Merit Systems Protection Board  
 Mine Safety and Health Administration  
   (Labor)  
 National Highway Traffic Safety Administration  
   (Transportation)  
 Occupational Safety and Health Administration  
   (Labor)  
 Overseas Private Investment Corporation  
 Pension Benefit Guaranty Corporation  
 Social Security Administration  
   (HHS)  
 U.S. Parole Commission  
   (Justice)

This list is merely illustrative. Many bureaus and divisions of agencies have authority to issue binding regulations or to decide specific claims, and the same rules on prior clearance from the Counsel's office apply for those entities as well.

You should be aware that the President and Vice-President are presently considering certain changes to the regulatory review process, and further instruction on contacts with regulatory agencies may be forthcoming as those changes are adopted.

2. Investigative and Intelligence Agencies: As set forth in Part B of this section, the ban on agency contacts extends to the litigating, investigative and

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adjudicatory divisions of the Department of Justice. The same rules also apply to the Internal Revenue Service, the Inspectors General, the Special Counsel of the Merit Systems Protection Board, and similar components of departments and agencies with authority to investigate charges of misconduct, to conduct audits of specific programs, or to bring complaints before courts or other adjudicative bodies.

White House staff should also confer with the Counsel's office before contacting agencies with respect to particular individuals. While the White House Office is not bound by the provisions of the Privacy Act of 1974, 5 U.S.C. Sec. 552a, Federal agencies are restricted by the Act from disclosing information about individuals contained in their files. The White House staff should be sensitive to these constraints.

Agencies in the intelligence community -- including the CIA, NSA, DIA, the Intelligence Division of the FBI, and the intelligence components of the military services -- report to the President through his Assistant for National Security Affairs. These agencies should not be contacted directly without coordinating first with the Assistant for National Security Affairs -- and, where issues of individual privacy arise, with the Counsel to the President.

3. **Procurement Agencies:** In recent years, the public has become increasingly sensitive to allegations of improper influence in the awarding of government contracts. No member of the White House staff should contact any procurement officer about a contract in which he or she has a personal financial interest or in which a relative, friend, or business associate has a financial interest. This is true not only with respect to calls or contacts in which influence is directly exerted, but also as to so-called "status" calls or other communications which might direct the attention of the procurement officer to the fact that a White House staff member has an interest.

There may be occasions when the White House has a legitimate interest in information about procurement matters. In such instances, however, any communication should be made only by persons who have no direct interest themselves, and whose friends or associates have no such interests. It is advisable that the lack of such interest be made known to those receiving the communication so that unintended inferences do not arise. Moreover, to the extent possible, information

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about a procurement matter should be obtained after the contracting procedure is completed, or should be obtained from persons not involved in the decision-making process. To avoid the appearance of conflict and subsequent embarrassment, White House staff members who feel they must contact procurement agencies with regard to pending matters should first contact the Office of the Counsel to the President.

**B. Communications with the Department of Justice**

As we are all aware, it is imperative that there be public confidence in the effective and impartial administration of the laws. Political figures and others may seek White House intervention in pending criminal and civil matters, but it undermines the administration of justice if the White House even appears to be interfering in such cases.

The following procedures have been established for communications between the White House staff and the Department of Justice.

1. Any written or oral communication to the White House concerning particular pending Department of Justice investigations or criminal or civil cases must be directed immediately to the Counsel to the President. If appropriate and necessary, the inquiry will then be transmitted by the Counsel's office to the Office of the Attorney General or the Deputy Attorney General. No other member of the White House staff should discuss a pending criminal or civil matter with private individuals or organizations, or with the Department of Justice.
2. All requests for formal legal opinions from the Department of Justice must be directed to the Counsel to the President, who will in turn forward such requests to the Office of the Attorney General or to the Assistant Attorney General in charge of the Office of Legal Counsel.
3. Members of the the White House staff may communicate directly with the Department of Justice with respect to policy, legislation and budgeting matters.

**C. Communications with the Department of the Treasury**

In light of the sensitive nature of matters before some of the component agencies of the Department of the Treasury -- such as the Office of Comptroller of the Currency, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and

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Firearms, and the Secret Service -- the following procedures have been established for communications between the White House staff and the Treasury Department:

1. Any written or oral communication to the White House concerning pending investigations or cases must be directed to the Counsel to the President. If appropriate and necessary, the inquiry will then be transmitted to the Office of the Deputy Secretary of the Treasury.
2. All inquiries which concern or may concern rulings on pending applications, regulatory actions or adjudications must likewise be directed to the Counsel to the President for transmittal, if appropriate and necessary, to the Deputy Secretary (although it is unlikely that inquiries with respect to adjudications or to so-called "private" rulings will be considered appropriate or necessary).
3. Other than for routine "tax checks" in personnel matters, requests for tax return information generally will not be favored. All requests involving tax return information must be directed to the Counsel to the President. If the information is deemed essential and if permitted by the Internal Revenue Code, such requests will be forwarded to the Deputy Secretary of the Treasury (except for routine "tax checks", which will be processed under our existing procedures).
4. Requests for information or statistical data of a routine nature and comments regarding policy, legislation and budgeting may continue to be handled directly by White House staff and appropriate Treasury officials.

D. Procedures Governing Presidential Review of International Aviation Decisions

Executive Order 12547 (February 6, 1986) sets out procedures for Presidential review of international aviation decisions pursuant to Section 801 of the Federal Aviation Act, 49 U.S.C. Sec. 1461. Section 5 of the Executive Order prohibits individuals within the Executive Office of the President from discussing Section 801 cases -- those involving international aviation -- with outside parties, and requires such individuals to refer written communications on Section 801 cases from outside parties to the appropriate office outside the Executive Office of the President. White House staff members should refuse to discuss with interested private parties cases subject to the

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President's approval under Section 801, and should refer any written communications concerning such cases to the Counsel's office for appropriate referral.

Purely domestic aviation decisions not subject to Presidential approval under Section 801 would typically be governed by the general policy against White House involvement in particular adjudicative matters. You should consult with the Counsel's office before discussing such cases with interested private parties or Government agencies.

\* \* \*

The matters covered in this memorandum are intended only to improve the internal management of the Executive Branch and are not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Please cooperate in observing the guidelines discussed above. If you have any questions regarding these procedures, please contact the Counsel's office.



## FILE XEH.BAK

Senator Bond: How was the White House notified of the referral?

Mr. Altman: They weren't notified by the RTC to the best of my knowledge.

Senator Bond: Nobody in your agency to your knowledge advised the White House staff that this was going to be a major--this could be a major source of concern?

Mr. Altman: Not to my knowledge.

Q: Did you have any conversations with White House staff on the referral?

A: On September 29, I had a brief conversation with Mr. Nussbaum following a meeting on another matter. I told him that I understood that there might be press inquiries concerning a possible criminal referral out of the RTC relating to Madison Guaranty [and that I understood that the President and the First Lady were mentioned as possible witnesses].

Q: Why did you have that conversation?

A: I told him on a confidential basis and as a courtesy, lawyer to lawyer. I believed that, if there were a press inquiry, the press office would come to him and he would want to be as prepared as he could be to respond. This was not a completely new issue. I recalled that there was a New York Times article relating to Madison Guaranty that had appeared during the campaign and I assumed that he would want to refamiliarize himself with the background of Madison Guaranty before he was hit out of the blue with a question on it. It was what I would expect another lawyer would do for me if I were going to be placed in the situation of responding to a press inquiry that required some background work.

Q: Was anyone else present?

A: I believe that Cliff Sloan, another White House attorney, was there. This was a lawyer-to-lawyer conversation.

Q: What else did you tell him?

A: I don't recall that I told him anything else.

Q: Wasn't it unusual to tell the White House about criminal referrals?

A: It is not unusual to apprise another counsel on a confidential basis of an issue that may come before them on a press inquiry. The issue related to a possible press inquiry.

Q: Isn't it against the law, or at least policy, to "tip" someone on a criminal referral?

A: No This was not a public disclosure of possible criminal referral. It was a confidential conversation, lawyer to lawyer, intended to simply apprise a lawyer of an issue that he might have to deal with. It was not a violation of law or policy.

Q: Are you saying that lawyers can have conversations that other people cannot? That lawyers can talk about things that other people are not permitted to talk about?

A: Again, this was a confidential conversation intended only to put Mr. Nussbaum on notice that there was an issue that he might be called upon to address in terms of a press inquiry so that he could do the background work to prepare for it.

Q: But didn't you expect him to tell others? In fact, didn't you expect that he would tell others in the White House?

A: I didn't expect him to do that. I expected that he would use the information to prepare himself for an inquiry.

TQ: Who in Treasury or the RTC knew that you had this conversation?

A: I don't recall that I told anyone of the conversation.

Q: Did you tell Mr. Altman?

A: No.

Q: Did anyone ask you to have this conversation?

A: No.

Q: Did you have any further conversations with anyone from the White House on this matter?

A: I attended a meeting with several people on October 14 to discuss a press inquiry and procedures to handle press inquiries on Madison Guaranty. I had little to add because I knew nothing more about the issue and I was not involved in the handling of press inquiries.

Q: Then why did you attend?

A: The conversation related to procedure and processing of press inquiries. Mr. Nussbaum attended. It is routine for senior lawyers to talk about procedural matters, even in criminal matters, and even those that affect a President.

Q: Did you have any other conversations with Mr. Nussbaum or his staff, or anyone else from the White House on this matter?

A: Nothing of substance that I can recall other than the meeting on February 2 with Mr. Altman that has previously been addressed.

Q: You had no conversations with the White House on this matter?

A: Shortly after my initial conversation with Mr. Nussbaum, the Madison Guaranty issue became public.

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DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

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*Aug 1*

# United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

September 28, 1994

Mr. John E. Ryan  
 Deputy and Acting CEO  
 Resolution Trust Corporation  
 801 Seventeenth Street, N.W.  
 Washington, D.C. 20434

Dear Mr. Ryan:

Enclosed are some post hearing questions from this Committee's hearings on the Whitewater matter. We will be publishing your responses to these questions in the printed version of our hearings. In order to complete the hearing record in a timely fashion we would appreciate your answers to the enclosed questions by Friday, October 7, 1994.

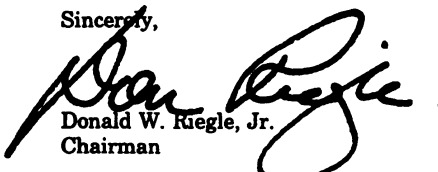
It would be greatly appreciated if you would have your responses formatted in the following manner:

- (1) Please title your responses indicating which Senator asked the question (e.g., "Questions from Chairman Riegle").
- (2) Set forth the question, then the answer to it, and single-space both questions and answers.
- (3) Include the number of each question and answer (e.g., "Question 1" and "Answer 1").
- (4) Do not use all capital letters in responding to these questions.

Please send your reply to Kelly Cordes, the Committee's chief clerk. She will transmit copies of your response to the Committee's publication office.

If you have any questions please contact Ms. Cordes at (202) 224-1568.

Sincerely,

  
 Donald W. Riegle, Jr.  
 Chairman

Enclosure

## QUESTIONS FROM SENATOR BOND

**John Ryan**

1. Please explain the guidelines followed by the RTC in producing documents to the Committee. What was the scope of the document production? Was it the same as for Independent Counsel Fiske?
  2. Please provide all analyses indicating that it is appropriate for White House personnel to receive confidential RTC information pertaining to criminal referrals from either RTC or Treasury personnel.
  3. The attached list of documents was provided to the Committee by Kenneth R. Schmalzbach, Assistant General Counsel, Department of the Treasury. Please provide a list which describes each of these documents and indicate which of these documents were provided to the Committee and which were not provided to the Committee.
- 

ATTACHMENTS



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

July 13, 1994

J. William Codinha, Esq.  
Special Counsel  
Committee on Banking, Housing,  
and Urban Affairs  
United States Senate  
Washington, D.C. 20510-6075

VIA FAX 228-0017

Dear Mr. Codinha:

Enclosed is a list of the documents (by Bates stamp number) that the Treasury forwarded to the RTC, as requested during Dennis Foreman's deposition yesterday. The list shows the office in Treasury which produced each document in response to Independent Counsel Fiske's subpoenas of March 4, 1994.

Sincerely,

Kenneth R. Schmalzbach  
Assistant General Counsel

Document Date: 7/13/94 (2:37pm)

Document Name: rtc.idx

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**RESOLUTION TRUST CORPORATION**  
**Resolving The Crisis**  
**Restoring The Confidence**

October 18, 1994

Honorable Donald W. Riegle, Jr.  
Chairman  
Committee on Banking, Housing,  
and Urban Affairs  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

As requested in your letter of September 28, 1994, enclosed are the Resolution Trust Corporation's responses to written questions from Senator Bond in connection with your Committee's hearing held on August 1, 1994 pursuant to Senate Resolution 229.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

John E. Ryan  
Deputy and Acting  
Chief Executive Officer

Enclosure

cc: Honorable Christopher S. Bond

**Resolution Trust Corporation's responses to written  
questions from Senator Bond in connection with  
the Senate Banking Committee hearing held on August 1, 1994  
pursuant to Senate Resolution 229**

**Question #1.** Please explain the guidelines followed by the RTC in producing documents to the Committee. What was the scope of the document production? Was it the same as for Independent Counsel Fiske?

**Response #1.** The scope of the RTC's document production was defined by Senate Resolution 229 and the Committee's June 22, 1994, letter which required the RTC to produce all such records, "regardless of format, that relate in any manner to ... communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association." We interpreted this definition broadly and asked all RTC offices and employees whom we reasonably believed might have any such records to collect all such documents and provide them to a team of RTC employees for collection and review. These offices include the Division of Legal Services, the Department of Investigations, and the Offices of Governmental Relations and Corporate Communications.

The documents as produced were initially classified and organized by RTC employees. The documents were then reviewed to ensure that they fell within the scope of the Committee's request and to determine whether they contained any information which discussed either the criminal investigation or referrals concerning Madison Guaranty Savings & Loan and Whitewater Development Corporation, or the ongoing RTC Professional Liability Section investigation of those entities.

We understood that the scope of the Committee's investigation did not extend to matters regarding either the criminal investigation or referrals, or the ongoing professional liability investigation. Consequently, records which implicate either the criminal investigation or referrals, or the professional liability investigation, were redacted to delete substantive references to these matters. Any such information was produced showing only the sender, addressee, date, and subject, provided that this data did not disclose substantive information regarding these matters or otherwise compromise any investigation or breach any privileges. All documents were then organized by RTC employees and produced to the Committee in triplicate.

The scope of this document production, while similar, was not the same as that for Independent Counsel Fiske.



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**Question #2.** Please provide all analyses indicating that it is appropriate for White House personnel to receive confidential RTC information pertaining to criminal referrals from either RTC or Treasury personnel.

**Response #2.** The RTC is not aware of any analyses on this subject.

**Question #3.** The attached list of documents was provided to the Committee by Kenneth R. Schmalzbach, Assistant General Counsel, Department of the Treasury. Please provide a list which describes each of these documents and indicate which of these documents were provided to the Committee and which were not provided to the Committee.

**Response #3.** The attached list (Attachment A) describes the documents which were identified on the list provided to the Committee by Kenneth R. Schmalzbach, Assistant General Counsel. We have identified these documents by the Department of Treasury's Bate stamp on the bottom right hand corner of each document.

We are unaware of which documents were produced to the Committee by the Department of the Treasury and which were not. Consequently, we believe that Senator Bond's question is requesting us to identify which of these documents were provided to the Committee by the RTC and which were not. Please be advised, however, that the descriptions provided in the attachment are based upon the face of the documents. The RTC makes no representation about the accuracy of any document. The RTC does not waive any privileges associated with any documents described in the attachment.

The rest of the documents listed by Mr. Schmalzbach were not transmitted by the RTC to the Committee on July 1, 1994, since they fell beyond the scope of the Committee request for all documents that "relate in any manner to...communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association." The documents that were not transmitted to the Committee are comprised of memoranda, draft questions and answers, copies of newspaper articles, correspondence, and fact sheets. Although we did not verify each document individually, it is our understanding that most of these documents have been subsequently provided to the Committee by the RTC after we responded to a somewhat broader document request from the House Banking Committee.

**Attachment**

## Attachment A

- 1) The following list identifies by Treasury Bates stamp number (from Letter: (07/13/94) Kenneth R. Schmalzbach to J. William Codinha) documents that the RTC provided to the Committee.

From General Counsel Jean E. Hanson office and files

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3365 Letter: (03/02/94) Roger C. Altman to Donald W. Riegle  
 3366 Letter: (03/03/94) Roger C. Altman to Donald W. Riegle  
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- 2) The following documents were not transmitted because they fell outside the scope of the Committee's request.

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- 3 RTC Early Bird (10/13/93)
- 4 RTC Clip Sheet (03/9/92)
- 5 Newspaper Article: Questions Are Raised About the Clintons and an Ozark Real-Estate Venture
- 10 Memo (02/23/94) Dennis I. Foreman to Roger C. Altman re: Recusal on RTC Matters Relating to Madison Guaranty S & L Association
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106 Letter (02/23/94) Jean E. Hanson to James A. Leach  
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 113 Memo: (02/23/94) Casey Carter to Doug Nappi re: Ethics  
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 115 Letter: (02/08/94) with various signatures to Roger Altman  
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 119 Letter: (undated) Roger C. Altman to Honorable Lauch  
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 127 Letter: (02/23/94) Peter E. Knight to Honorable Alfonse M.  
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 1765 Letter: (received 12/17/93) Marshall R. Williams to John C.  
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 1766 Questions w/ reference  
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2981 - 2984 Letter: (02/08/94) Alfonse D'Amato, Lauch  
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3026 Letter: (01/11/94) Alfonse D'Amato, Bob Dole, et al to Janet Reno  
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3112 Memo: (12/30/93) Peter E. Knight to Roger Altman re: Status Report on Leach Investigation  
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 3115 Letter: (12/17/93) Marshall R. Williams to John C. Binkley, Philip J. Lindenmuth  
 3116 Memo: (12/21/93) Roger C. Altman to Glion Curtis re: Congressman Leach Request  
 3117 Draft Letter: (12/21/93) Roger C. Altman to James A. Leach  
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3211A Q&A  
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3225 Draft Index: Q&As (02/14/94)  
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3279 Q&A  
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**Office and files of J. Benjamin H. Nye, Special Assistant to the Deputy Secretary**

3373 Letter: (02/18/94) Alfonse M. D'Amato to Roger Altman  
3375 Letter: John E. Ryan to Alfonse M. D'Amato (Page 2 Only)  
3376 - 3416 Inventory on Documents Released to Sen. D'Amato  
3417 Letter: (02/23/94) to Alfonse D'Amato  
3418 Letter: (02/23/94) Peter E. Knight to Alfonse M. D'Amato  
3419 " "  
3420 Enclosure: Ethics Agreement (signed by Albert V. Casey, 10/09/91)  
3421 " "  
3422 Memo: (05/14/92) Albert V. Casey to Arthur J. Kusinski re: Recusal Notice - Indemnification  
3423 Memo: (04/10/92) Albert V. Casey to Arthur J. Kusinski re: Recusal Notice - First Republic Bank  
3424 Letter: (05/29/92) Arthur J. Kusinski to Albert V. Casey  
3425 Memo: (03/16/93) Arthur J. Kusinski to Exec Cmte & Jack Buckley re: Recusals - Roger C. Altman (with Attachments)  
3426 " "  
3427 " "  
3428 " "  
3429 " "  
3430 Letter: (01/11/93) Roger C. Altman to Dennis I. Foreman  
3431 " "  
3432 " "  
3433 Attachment A: Assets to be Divested  
3434 Attachment B: Client List  
3435 Letter: (02/18/94) Alfonse M. D'Amato to Roger Altman  
3436 Letter: (02/23/94) Peter E. Knight to Alfonse M. D'Amato  
3437 " "  
3438 Enclosure: Ethics Agreement (signed by Albert V. Casey, 11/09/91)  
3439 " "

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3440 Memo: (05/14/92) Albert V. Casey to Arthur J. Kusinski re:  
 Recusal Notice - Indemnification  
 3441 Memo: (04/10/92) Albert V. Casey to Arthur J. Kusinski re:  
 Recusal Notice -- First Republic Bank  
 3442 Letter: (05/29/92) Arthut J. Kusinski to Albert V. Casey  
 3443 Memo: (03/16/93) Arthur J. Kusinski to Exec Cmte Members &  
 Jack Buckley re: Recusals - Roger Altman (with Attachments)  
 3444 Attachments  
 3445 " "  
 3446 " "  
 3448 - 3452 Letter: (01/11/93) Roger C. Altman to Dennis I.  
 Foreman with Attachments  
 3456 Letter: (not dated) Roger C. Altman to Lauch Faircloth (not  
 signed)  
 3457 Draft Letter: (not dated) John E. Ryan to Lauch Faircloth (not  
 signed)  
 3458 - 3461 Letter: (02/08/94) Alfonse M. D'Amato, Lauch  
 Faircloth, et al to Roger Altman  
 3462 Letter: (02/18/94) Peter E. Knight to Alfonse M. D'Amato  
 3463 " "  
 3464 Letter: (02/08/94) Alfonse M. D'Amato to Peter Knight  
 3465 Memo: (02/23/94) Casey Carter to Doug Nappi re: Ethics  
 Material  
 3466 Letter (02/23/94) Jean E. Hanson to James A. Leach  
 3467 " "  
 3468 " "  
 3469 Memo (02/23/94) Dennis I. Foreman to Roger C. Altman re:  
 Recusal on RTC Matters Relating to Madison Guaranty S&LA  
 3470 Memo: (02/18/94) Arthur J. Kusinski to Roger G. Altman re: RTC  
 Madison Guaranty Matters  
 3471 " "  
 3472 " "  
 3473 - 3474 Attachment (02/03/94) Leach letter to Roger Altman  
 Excerpts: Federal Home Loan Bank Board: Report of  
 Examinations (Madison Financial Corp.)  
 3475 Letter: (02/03/94) James A. Leach to Roger C. Altman  
 3476 " "  
 3477 - 3485 Attachment (02/03/94) Leach letter to Roger Altman  
 Memo: (undated) Banking Minority Staff to Cong.  
 Leach re: " "Madison Guaranty ('Madison')" " " with  
 Attachments  
 3486 Letter: (01/25/94) Alfonse M. D'Amato to Roger Altman  
 3487 " "  
 3488 Letter: (02/01/94) Roger C. Altman to Alfonse M. D'Amato  
 3492 - 3493 Letter: (05/04/93) Roger C. Altman to Henry B.  
 Gonzalez  
 3494 Letter: (12/09/93) James A. Leach to Roger C. Altman  
 3495 Letter: (12/22/93) Roger C. Altman to James A. Leach  
 3496 Letter: (01/11/94) Alfonse M. D'Amato, Bob Dole, etal to Janet  
 Reno  
 3497 " "

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3501 RTC Meeting Agenda (02/01/93)  
 3502 " "  
 3503 Letter: (02/01/94) Roger C. Altman to Robert J. Dole  
 3504 Letter: (12/22/93) Roger C. Altman to James A. Leach  
 3505 - 3506 Letter: (01/11/94) Alfonse M. D'Amato, Bob Dole,  
 etal to Janet Reno  
 3507 - 3508 Letter: (01/25/94) Alfonse M. D'Amato to Roger  
 Altman  
 3509 Letter: (02/08/94) Alfonse D'Amato, Lauch Faircloth, et al to  
 Roger Altman  
 3510 " "  
 3511 " "  
 3512 " "  
 3513 Fax cover sheet: (02/08/94) Howard Menell to Peter Knight  
 3518 Q&A  
 3519 " "  
 3521 " "  
 3522 " "  
 3523 " "  
 3524 " "  
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 3531 Letter: (12/17/93) Marshall R. Williams to John C. Binkley,  
 Philip J. Lindenmuth  
 3532 Letter (undated) Richard C. Stiener to Donna Cunninghame  
 3533 Fax (12/22/93) Peter E. Knight to Ben Nye -- Cover Page  
 3534 Memo: (12/22/93) Peter E. Knight to Dennis Geer, Bill  
 Collishaw etal re: Access to All Documents Related to Madison  
 3579 Letter: (Undated) Richard C. Stiener to Donna Cunninghame  
 3580 Fax (01/03/94) Peter E. Knight to Ben Nye  
 3581 " "  
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 3585 Q&A  
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3603 Q&A  
 3604 " "  
 3605 " "  
 3621 Letter: (02/01/94) Roger C. Altman to Robert J. Dole  
 3637 Cover memo: (01/27/94) Jean Hanson to Newman, Levy, Nye  
 3638 Draft Letter (01/27/94) John E. Ryan to Robert J. Dole

**Office of the Assistant Secretary (Financial Institutions)**

3707 Q&A Index (02/23/94)  
 3708 " "  
 3709 Fact Sheet #23: Procedures for Handling Criminal Referrals  
 3710 Q&A  
 3711 " "  
 3712 " "  
 3713 " "  
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**Office of the Under Secretary for Domestic Finance**

3793 Q&A  
 3794 Fact Sheet #23: Procedures for Handling Criminal Referrals

**Office of the General Counsel files**

4359 Memo: Jean Hanson to Deputy Secretary Altman re: 01/24/94  
 Conversation with Peter Knight  
 4360 " "  
 4361 Q&A  
 4364 " "  
 4369 " "  
 4374 Draft Index: Q&A (02/18/94)  
 4375 " "  
 4376 Q&A  
 4377 " "  
 4378 " "  
 4379 " "  
 4380 " "  
 4381 " "

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4385 Fax (02/15/94) Ellen Kulka to Jean Hanson  
 4386 " "

#### Internal Revenue Service (Internal Security)

4451 Memo (11/03/93) Jean E. Hanson to Roger C. Altman [subject  
 matter unrelated to Madison]  
 4452 " "  
 4453 Memo (06/03/93) Jean E. Hanson to Roger C. Altman [subject  
 matter unrelated to Madison]  
 4457 Memo (06/03/93) Jean E. Hanson to Roger C. Altman [subject  
 matter unrelated to Madison]  
 4458 " "  
 4462 Memo (07/16/93) Jean E. Hanson to Dep. Sec'y Altman and Under  
 Secretary Newman [subject matter unrelated to Madison]  
 4463 " "

#### Leary, Jean

4628 Dumpfile\File - "Leach"  
 4629 " "  
 4630 Dumpfile\File - "Question"  
 4631 " "  
 4632 Dumpfile\File - "Recusal"  
 4634 Dumpfile\File - "Riegle"  
 4636 Dumpfile\File - "Riegle.2"  
 4637 Dumpfile\File - "Riegle.3"

#### Dawson, Veronica

4718 File\Xtract (03/21/94) Sector 27778  
 4719 File\Xtract (03/21/94) Sector 27779  
 4729 File\Xtract (03/21/94) Sector 28355  
 4730 File\Xtract (03/21/94) Sector 28356  
 4733 File\Xtract (03/21/94) Sector 28721  
 4735 File\Xtract (03/21/94) Sector 28753  
 4768 File\Xtract (03/21/94) Sector 28961  
 4769 File\Xtract (03/21/94) Sector 28962  
 4770 File\Xtract (03/21/94) Sector 28977  
 4771 File\Xtract (03/21/94) Sector 28978  
 4772 File\Xtract (03/21/94) Sector 28993  
 4773 File\Xtract (03/21/94) Sector 28994  
 4774 File\Xtract (03/21/94) Sector 29025  
 4775 File\Xtract (03/21/94) Sector 29026  
 4805 File\Xtract (03/21/94) Sector 28677  
 4806 File\Xtract (03/21/94) Sector 28678  
 4807 File\Xtract (03/21/94) Sector 28679  
 4808 File\Xtract (03/21/94) Sector 28680  
 4809 File\Xtract (03/21/94) Sector 28681

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4817 File\Xtract (03/21/94) Sector 28689  
 4818 File\Xtract (03/21/94) Sector 28690  
 4819 File\Xtract (03/21/94) Sector 28691  
 4830 " "

**OGC Common Use**

4846 File\Xtract (03/22/94) Sector 106761  
 4847 File\Xtract (03/22/94) Sector 106762  
 4848 File\Xtract (03/22/94) Sector 106765  
 4849 File\Xtract (03/22/94) Sector 106766  
 4850 File\Xtract (03/21/94) Sector 106767  
 4851 File\Xtract (03/22/94) Sector 106785  
 4852 File\Xtract (03/22/94) Sector 106786  
 4853 File\Xtract (03/22/94) Sector 106787  
 4854 File\Xtract (03/22/94) Sector 106793  
 4855 File\Xtract (03/22/94) Sector 106794  
 4856 File\Xtract (03/22/94) Sector 106795  
 4857 File\Xtract (03/22/94) Sector 106818  
 4858 File\Xtract (03/22/94) Sector 106819  
 4859 File\Xtract (03/22/94) Sector 106949  
 4873 File\Xtract (03/22/94) Sector 107733  
 4874 File\Xtract (03/22/94) Sector 107734

**Foreman, Dennis**

4901 File\Xtract (03/21/94) Sector 97615

**Yarbrough, Jane**

5037 File\Xtract (03/22/94) Sector 27002  
 5038 File\Xtract (03/22/94) Sector 27003  
 5039 File\Xtract (03/22/94) Sector 27034  
 5040 File\Xtract (03/22/94) Sector 27035  
 5195 File\Xtract (03/21/94) Sector 32522  
 5196 File\Xtract (03/22/94) Sector 32523  
 5250 Dumpfile  
 5255 Dumpfile\File - "A:Recusala"

**Office of the General Counsel Executive Secretariat**

5399 Q&A  
 5400 " "  
 5401 " "  
 5402 " "  
 5403 " "  
 5404 " "  
 5405 " "

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**General Counsel Jean E. Hanson's office**

5658 Fax (01/25/94) John Bowman to Sharon Hume

5659 Memo (01/13/94) Thomas L. Hindes to James Barker re:

5660 " "

5663 Letter: (12/22/93) Roger C. Altman to James A. Leach

5664 Letter: (02/01/94) Roger C. Altman to Robert J. Dole

5665 Letter: (02/01/94) Roger C. Altman to Jan Meyers

5666 Letter: (02/01/94) Roger C. Altman to William F. Clinger

5667 Letter: (02/01/94) Roger C. Altman to Larry Pressler

5668 Letter: (02/01/94) Roger C. Altman to Jim Leach

5669 Letter: (02/01/94) Roger C. Altman to Hamilton Fish, Jr.

5670 Letter: (02/01/94) Roger C. Altman to Robert H. Michel

5671 Letter: (02/01/94) Roger C. Altman to Alfonse M. D'Amato

5672 Letter: (01/10/94) Alfonse D'Amato, Bob Dole, et al to Roger Altman

5673 Letter: (01/11/94) Alfonse D'Amato, Bob Dole, et al to Janet Reno

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5678 Fax (03/01/94) Peter Knight to Jean Hanson

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5691 Handwritten Notes

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5694 Letter: (01/03/94) Roger C. Altman to Peter E. Knight

5695 Memo: (12/30/93) Peter E. Knight to Roger C. Altman re: Status Report on Leach Investigation

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5698 Letter: (12/17/93) Marshall R. Williams to John C. Binkley, Philip J. Lindenmuth

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5704 Q&amp;A

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5741 Tab: Section IV  
5742 Q&A  
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5747 Tab: Section VIII  
5748 Q&A  
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5756 Tab: Section IX  
5759 Q&A  
5760 Tab: Section X  
5761 Q&A  
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5772 Tab: Section XII  
 5773 " "  
 5775 Q&A  
 5776 Letter: (02/08/94) Alfonse D'Amato, Lauch Faircloth et al to  
 Roger Altman  
 5777 " "  
 5778 " "  
 5779 " "  
 5780 Fax (02/08/94) Howard Menell to Peter Knight (Cover Sheet)  
 5781 Fact Sheets (Draft)  
 5782 Fact Sheet #1: Senate Banking Committee Members  
 5783 " "  
 5784 " "  
 5785 " "  
 5786 Fact Sheet #2: House Banking Committee Members  
 5787 " "  
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 5794 Fact Sheet #3: RTC Funding History  
 5795 Fact Sheet #4: Cleanup Progress At A Glance  
 5796 Fact Sheet #5: Management Reforms  
 5797 " "  
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 5799 Fact Sheet #6: Management Reforms Under The RTC Completion Act  
 5800 Fact Sheet #7: RTC Completion Act Section-By-Section Summary  
 5801 " "  
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 5813 Fact Sheet #8: Savings Association Insurance Fund  
 5814 " "  
 5815 Fact Sheet #9: RTC Internal Controls  
 5816 " "  
 5817 Fact Sheet #10: RTC Inspector General (IG) Information  
 5818 Fact Sheet #11: Highly Publicized GAO and IG Audits  
 5819 " "  
 5820 Fact Sheet #12: Contracting at HomeFed: Price Waterhouse &  
 Grant Thornton  
 5821 " "  
 5822 Fact Sheet #13: Audit Committee

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5823 Fact Sheet #14: RTC Committee Systems  
 5824 " "  
 5825 Fact Sheet #15: RTC Detailed Asset Portfolio  
 5826 Fact Sheet #16: Asset Disposition Strategies  
 5827 " "  
 5828 " "  
 5829 Fact Sheet #17: SAMDA/SAMA  
 5830 " "  
 5831 Fact Sheet #18: Securitization  
 5832 " "  
 5833 Fact Sheet #19: Environmental Properties  
 5834 Fact Sheet #20: Rent Control  
 5835 Fact Sheet #21: S&L Prosecutions - Fines - Recoveries  
 5836 " "  
 5837 Fact Sheet #22: Professional Liability Lawsuits  
 5838 " "  
 5839 Fact Sheet #23: Procedures For Handling Criminal Referrals  
 5840 Fact Sheet #24: MWOB Contracting  
 5841 Fact Sheet #25: MWOB Contracting Parity Guidelines  
 5842 Fact Sheet #26: Implementing RTC Completion Act Provision  
 Enhancing Minority Acquisition...  
 5843 " "  
 5844 " "  
 5845 Fact Sheet #27: Affordable Housing Advisory Board  
 5846 " "  
 5847 Fact Sheet #28: Housing Opportunity Hotline  
 5848 Fact Sheet #29: Whistleblower Protections  
 5849 Fact Sheet #30: Tate Nomination Withdrawal  
 5850 " "  
 5851 " "  
 5852 " "  
 5853 Fact Sheet #31: Background & Tax Aspects Of 1988 FSLIC Deals  
 5854 " "  
 5855 Fact Sheet #32: Supervisory Goodwill Buy-Back Program  
 5856 " "  
 5857 " "  
 5858 Fact Sheet #33: Uninsured Depositors  
 5859 Fact Sheet #34: RTC/FDIC Transition Task Force  
 5860 " "  
 5861 Fact Sheet #35: The Thrift Depositor Protection Oversight  
 Board  
 5862 " "  
 5863 Cover/Section Page- New " "OB Q&A" " Materials  
 5864 Index: Q&As (Draft) (02/18/94)  
 5865 " "  
 5866 Q&A  
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5873 Q&A  
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5925 Q&A  
 5926 " "  
 5927 E-Mail (02/22/94) April Breslaw to Ellen Kulka, Thomas Hindes,  
 et al  
 5928 Attachment to E-Mail  
 5929 " "  
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The following numbers were not located:

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# HEARINGS RELATING TO MADISON GUAR- ANTY S&L AND THE WHITEWATER DEVEL- OPMENT CORPORATION—WASHINGTON, DC PHASE

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TUESDAY, AUGUST 2, 1994

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
*Washington, DC.*

The Committee met at 9:35 a.m., in room 106 of the Dirksen Senate Office Building, Senator Donald W. Riegle, Jr. (Chairman of the Committee) presiding.

## OPENING STATEMENT OF CHAIRMAN DONALD W. RIEGLE, JR.

The CHAIRMAN. The Committee will come to order.

Let me welcome all those in attendance this morning, and invite those present to find seats so that we can begin the hearing.

I have a very brief opening comment that will introduce our panel. Then we will hear from today's witnesses. Some I know have prepared statements and after we have sworn the witnesses, we will have them give those statements, and then we will go to the questions.

I want to announce for all the Committee Members that it's my intention to break for the two party caucus luncheons that occur today at about 1:15 p.m. and to reconvene at about 2:15 p.m. That's the plan so that everybody can make arrangements accordingly.

Today, we have the third day of our hearings by our Committee on Banking, Housing, and Urban Affairs, operating under the resolution that was passed by the Senate, giving us the responsibility to carry out this investigative process in these hearings.

In that conjunction, we have two panels that will appear today. The first panel, which is now seated here in the Committee room, will include Mr. Joshua Steiner who is the Chief of Staff to the Secretary of the Treasury and a former Special Assistant to the Deputy Secretary of the Treasury; Mr. Dennis Foreman, Deputy General Counsel and Designated Agency Ethics Officer to the U.S. Department of the Treasury; Mr. Jack DeVore, who is a former Assistant Secretary of the Treasury for Public Affairs; and our final person on this morning's panel will be Mr. Benjamin Nye, who is the current Special Assistant to the Deputy Secretary of the Treasury. Then later in the day, the second panel will consist of Mr. Roger Altman, who is the Deputy Secretary of the Treasury and former interim CEO of the Resolution Trust Corporation.

As with our prior hearings, we're looking forward to hearing from these witnesses so they'll be able to elaborate on events relating to that aspect of our resolution dealing with whether improper conduct took place in regard to communications between officials of the White House and the Department of the Treasury for the Resolution Trust Corporation, relating to the Whitewater Development Corporation and the Madison Guaranty Savings & Loan Association.

I might say that we have deposed all these witnesses previously, they've given statements under oath, so they'll be here today to add to that record, and to respond to questions from the Committee.

Let me now ask you, if you would, to stand and raise your right hand and take the oath.

[Witnesses sworn.]

The CHAIRMAN. Gentlemen, be seated if you would.

Mr. Steiner, we're going to start with you this morning. It's my understanding that you have a statement to make, and I gather we all have copies of it. Why don't you begin.

**STATEMENT OF JOSHUA L. STEINER, CHIEF OF STAFF TO THE SECRETARY OF THE TREASURY, U.S. DEPARTMENT OF THE TREASURY; FORMER SPECIAL ASSISTANT TO THE DEPUTY SECRETARY OF THE TREASURY, WASHINGTON, DC**

Mr. STEINER. Mr. Chairman, Senator D'Amato, Members of this Committee, my name is Joshua Steiner, I serve as the Chief of Staff of the Department of the Treasury. Before joining the Treasury Department, I was executive assistant to Timothy Healy, the president of the New York Public Library.

I'm here today to answer your questions and help clarify any outstanding issues concerning contact between the Treasury Department and the White House on the Resolution Trust Corporation's investigation of Madison Guaranty. I have cooperated fully with all investigations into this matter, including those conducted by Mr. Fiske, the Office of Government Ethics, and congressional committees.

Several Members of this Committee have commented on my personal diary, and if I might, I would like to make one brief point about it. I started keeping this diary nearly 6 years ago. I would write in it fairly infrequently, sometimes every 2 weeks. Other times, 6 weeks would go by before I made an entry. Indeed, some of the entries of interest to this Committee describe events that occurred nearly a month before I wrote about them.

I made no effort to check the accuracy of my diary because this was never intended to be a precise narrative or a verbatim account of what took place. At times, it included impressions of meetings that I did not even attend. It was, more than anything, a way to reflect on events and draw lessons from my personal and professional experiences.

Today, you will ask me questions under oath, and I hope my answers will clarify the entries I made in my diary.

Since the time I first made these entries, I've had a chance to reflect about precisely what I know. I wish that my diary was more accurate but I take my responsibility to this Committee very seri-

ously, and I feel obligated to present the facts as truthfully as I possibly can.

Thank you.

The CHAIRMAN. Thank you.

Mr. Nye, I think you're probably the next most senior person at the table. I'm not sure on that, in terms of these job titles, but why don't you go next here.

**TESTIMONY OF J. BENJAMIN H. NYE, SPECIAL ASSISTANT TO THE DEPUTY SECRETARY OF THE TREASURY, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. NYE. Mr. Chairman, Members of the Committee, my name is Benjamin Nye and I welcome the opportunity to appear here today. I'd like to provide you with a brief summary of my background for the benefit of this Committee and an outline of my role in the matters at hand.

Prior to working at Treasury, I worked in Boston as a business consultant in the strategy group of a firm called Mercer Management Consulting. I left in early February to begin work in public service, and have since worked at the Treasury Department for the past year and a half.

I first joined Treasury as a Special Assistant to the Assistant Secretary for Economic Policy. There I served as both the Chief of Staff, managing 54 people and the office budget, as well as a policy advisor to the Assistant Secretary on issues such as the 1993 budget bill, the earned income tax credit expansion, the auto task force, and several other policy issues.

I then succeeded Josh Steiner as the Special Assistant to the Deputy Secretary. I began working for Roger Altman in early September 1993 and I still do so today.

My involvement in the events related to Madison Guaranty comes through meetings I attended within the Treasury and at the RTC. I did not attend the White House meetings that have been the subject of these hearings. Furthermore, I did not have any phone conversations with anyone at the White House on this matter. Finally, I do not know, or did not know of the Treasury-White House meetings which occurred before February 2, and which did not include the Deputy Secretary himself.

In conclusion, I would like to state, for the record, that I have the utmost respect for the integrity of the people with whom I work at Treasury. Roger Altman, Jean Hanson, and Josh Steiner are friends, yes, but more importantly, I know them to be honest, forthright, and extremely credible.

I'd be happy to answer any questions you or other Members of the Committee may have.

Thank you.

The CHAIRMAN. Thank you.

Mr. Foreman, I know you have a statement, and we'd like to hear your statement now.

**TESTIMONY OF DENNIS I. FOREMAN, DEPUTY GENERAL COUNSEL, DESIGNATED AGENCY ETHICS DIRECTOR, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. FOREMAN. Thank you, Mr. Chairman. Good morning.

Good morning, Senator D'Amato, Members of the Committee.

My name is Dennis Foreman. I'm the Deputy General Counsel of the Treasury Department. I have been in public service for nearly 24 years. I'm a Vietnam veteran having served in the Army's Airborne Special Forces.

I was with the U.S. Foreign Service for 5 years, including postings to the U.S. embassies in Beirut and Tunis, and the U.S. Mission to the United Nations in New York. I've worked in four Executive Branch legal offices.

In 1989, I was selected to be the Assistant Legal Advisor for Ethics and Personnel at the Department of State, which was my first position with ethics responsibilities. In January, 1991, I was appointed to the Treasury Deputy Counsel position, which carries with it the responsibilities as the Designated Agency Ethics Official.

I'm appearing here today at the Committee's request to discuss matters pursuant to Senate Resolution 229. Because of my position as the Senior Ethics Official at Treasury, I have certain responsibilities. To put those responsibilities in proper perspective, I think it's appropriate to briefly review some of the events in which I was involved.

My involvement in and knowledge of the events leading up to the February 2, 1994, meeting at the White House was very limited.

In January, 1994, I read press stories about Madison Guaranty which stated that some type of civil claims were being reviewed by the Resolution Trust Corporation. I also specifically remember reading a letter from Senator D'Amato to Mr. Altman, dated January 25, 1994, that referred to civil claims involving Madison, the statute of limitations, and "tolling agreements."

Senator D'Amato's letter noted that there was a deadline for action in late February. At that time, someone, I have no recollection as to who it may have been, explained to me that these terms related to normal RTC procedural actions relating to insolvent thrifts. I was told that the civil claims were being reviewed under routine procedures within the RTC. I believe I also read this comment in Mr. Altman's, February 1, 1994, response to Senator D'Amato.

I also understood that action on the substance of the civil claims might eventually be presented to the interim CEO for decision, although no proposed action was yet on his desk. This, then, brought up the question as to whether Mr. Altman should recuse himself from consideration of the matter, even before it arrived.

In late January or early February, Jean Hanson, the General Counsel of Treasury, asked me for my views on whether Mr. Altman should recuse himself because of his friendship with the President. I told her that I had not undertaken any legal analysis to determine whether there was a legal requirement that he recuse, but that my own first reaction was that he should recuse himself. Ms. Hanson commented that she agreed with me.

Sometime after our first discussion, Ms. Hanson told me that she had discussed the recusal with Mr. Altman, and that he was "leaning" toward recusal.

In mid-afternoon of Wednesday, February 2, Ms. Hanson entered my office and said something like, "we're going over to the White

House in a few minutes. Please look at these talking points." I remember scanning the points quickly and recognizing that they noted generally the same procedural points regarding the statute of limitations and tolling agreements that I had seen mentioned previously in the press and in Senator D'Amato's letter.

The talking points did not mention anything about the substance of the Madison civil claims. I believe that I said aloud something like, "This is OK, this is public information."

I based my comment, in general, on information I had seen in the press and in the congressional letters. I did not believe that this was nonpublic information. If it had been, I would have considered the matter further in terms of the standards of conduct, particularly Section 5 C.F.R. 2635.703, the Use of Nonpublic Information.

The final talking point indicated that Mr. Altman had already decided to recuse himself. I remembered that Ms. Hanson had told me that he was leaning toward recusal and I questioned whether he had made a final decision. I do not remember Ms. Hanson's response, if any.

My review of the talking points and the brief discussion with Ms. Hanson lasted no longer than 2 to 3 minutes and my analysis centered on the public information issue. Based on the talking points I reviewed, I do not believe that the meeting violated any ethics regulation. The Office of Government Ethics has agreed with my conclusion.

Based on press comments, there seems to be some confusion about the issue of appearance of impropriety. For there to be an appearance that leads to a violation of the regulations, it is not enough that there is public controversy, or criticism, or even a public uproar. The standard under the regulations is whether a reasonable person with knowledge of the relevant facts would believe that the regulations have been violated.

According to the talking points I reviewed, the information to be discussed at the meeting was procedural and generally public. Moreover, to the best of my knowledge, no action was taken relating to the actual handling of the substance of the Madison civil claims themselves. Hence, I do not believe that a reasonable person with knowledge of the relevant facts would believe that the Ethics Regulations were violated. Again, I'm pleased that the Office of Government Ethics reached the same conclusion.

On February 3, Mr. Altman received a letter from Congressman Leach, asking him to confer with "Treasury's General Counsel and Ethics Officers" to consider recusal from the Madison matter.

On the evening of February 2 or February 3, Ms. Hanson told me that Mr. Nussbaum thought that I, as the Treasury Ethics Lawyer, should talk to the Senior Ethics Lawyer for his office, Beth Nolan, about the question of Mr. Altman's possible recusal.

I talked to Ms. Nolan on February 4, and informed her that Treasury, RTC, and OGE were going to undertake the legal analysis related to recusal. I also informed her that I was only going to discuss procedure and that I had no knowledge about any of the substantive issues related to Madison.

Ms. Nolan's notes indicate that we had a similar phone conversation on February 9. The only comment I remember Ms. Nolan mak-

ing on this subject was that the conclusion could become a precedent for similar circumstances in the future.

Later on February 4, I went to the Office of Government Ethics and had a similar conversation with Mr. Campbell, the Deputy Director, and Gary Davis, the General Counsel. I noted again that I had no knowledge of the substance of the civil claims relating to Madison, explained the procedural framework, and said that I had informed Ms. Nolan that we were going to analyze the legal issues with OGE and RTC ethics officials. The OGE officials said they would work with Treasury and the RTC on the question.

A few days later, Mr. Altman, Ms. Hanson, Ellen Kulka, RTC's General Counsel, and Arthur Kusinski, RTC's Senior Ethics Official, and I met with Mr. Altman to discuss the recusal issue. Mr. Altman directed us to ensure that our legal research and analysis was complete, thorough, and accurate, or words to that effect.

In the following days, I worked on and concurred in the legal analysis and ethics opinion that was sent to Mr. Altman on February 18, 1994, by Mr. Kusinski.

The Office of Government Ethics also concurred in that opinion. In essence, that opinion said that there was no legal requirement that Mr. Altman recuse himself from Madison-related matters.

I sent Mr. Kusinski's memorandum, with my own cover note, reiterating my concurrence to Mr. Altman on February 23, to ensure that there was no doubt about Treasury, RTC, and OGE consensus on this issue.

I believe there is another source of confusion in the public discussion about these meetings. Do they present issues of "ethics" or questions of "judgment." The word "unethical" has a connotation of something improper. The word "judgment" goes to the subjective reasoning power of human beings and possible human error, NOT improper behavior.

In my years as an ethics lawyer, I have always said to Federal employees that if they check with us about some proposed action, and give us information about the context, and if we don't object to the activity, then criticism for the ethics call should shift to the ethics lawyer.

For the February 2 meeting talking points, that ethics lawyer is me. I had an opportunity to object to the meeting, but didn't do so.

I didn't object because there was nothing objectionable, in my view. It is not only unfair but inaccurate to criticize Mr. Altman or Ms. Hanson for doing something "unethical" in relation to the February meeting. That is my responsibility.

That leaves the issue of judgment. As I noted before, I suggest that this be analyzed as a question of human reasoning power rather than one of improper behavior.

Finally, one more comment. In my experience, ethics issues arise all the time in Federal agencies, both as considerations in decision-making and in connection with financial disclosure and other requirements applicable to officials appointed by the President.

Secretary Bentsen introduced me to his new staff on the morning of January 21, 1993, and turned that first staff meeting over to me for a 90-minute seminar on Government ethics.

The Secretary made it clear that ethical considerations were a matter of great importance for him. Based on my frequent inter-



action with the senior officials at Treasury for the last 18 months, I believe that those officials have worked hard to conform to the many complex ethics rules applicable to senior officials. I have the highest regard for their ability, integrity, and professionalism.

Thank you, Mr. Chairman. I would be pleased to respond to any questions from the Committee.

The CHAIRMAN. Thank you, Mr. Foreman.

Mr. DeVore, do you have a statement?

**COMMENT OF JACK DeVORE, FORMER ASSISTANT SECRETARY OF THE TREASURY FOR PUBLIC AFFAIRS, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. DEVORE. I do not, Mr. Chairman.

The CHAIRMAN. Then we'll start with the question periods.

I'm going to try today to keep within our time. I know there's a tendency to run over a bit, but I'm going to try to watch that very closely. I'm going to start by staying within the time myself in my first round here.

Mr. Steiner, I want to start with the diary that you kept. I think it is an important document.

You were the Special Assistant to Roger Altman from January until August, 1993. Then you became Chief of Staff to Secretary Bentsen, and that's a position you still hold. Is that right?

Mr. STEINER. That's correct.

The CHAIRMAN. When you were preparing your diary, I assume you never thought anybody would review your diary. You were writing it for yourself. Is that a fair assumption?

Mr. STEINER. That is.

The CHAIRMAN. Would it also be fair to assume that you kept the diary for your own personal use as a way of recording the significant occurrences that took place that you knew about or were involved in?

Mr. STEINER. Senator, as I said in my opening statement, I think I used my diary as an opportunity to reflect back on events, but its primary purpose, I think, was to try to draw lessons from my personal and professional experiences.

The CHAIRMAN. Do you have a copy there of the diary entries that we're going to focus on here today?

Mr. STEINER. Yes, I do.

The CHAIRMAN. Do you want to get those in front of you?

Would you agree with me that all of the significant entries between December 2 and February 27 related to Whitewater?

Mr. STEINER. Yes, I would.

The CHAIRMAN. In your diary, in terms of the coding system you used, I assume, I just want to put this down for the record that RA is Roger Altman, BC is the President, Bill Clinton, HRC, of course, is Hillary Rodham Clinton, WH is the White House, George is apparently George Stephanopoulos, and Harold is Harold Ickes. Is that the coding system that was being used here?

Mr. STEINER. That's correct.

The CHAIRMAN. Let me read you the entries and ask you if these are indeed what you wrote, and if they are accurate, and it's 1/24 to 2/12/94. Those are the dates. It says two extremes.

In D.C. spent long hours with RA, Roger Altman, going over how he should handle the RTC's investigation of Whitewater. The statute of limitations on Madison Guaranty cases was supposed to expire 2/28. Should RA recuse himself or should he stay involved. The hurdle was so high, fraud, that it seemed unlikely the RTC would bring suit or seek a tolling agreement from BC/HRC, but the chance existed.

RA originally decided to recuse himself, but under intense pressure from the White House, he said he would make the final determination based on a recommendation from Ellen Kulka, the GC.

Now let me just stop there.

When you say here, "but under intense pressure from the White House," what does that refer to?

Mr. STEINER. Senator, if I might, I'd just like to give you a little bit of background, in addition, and then I'll answer your question.

Which is that, as you'll see, the dates here are 1/24 to 2/12. This entry was, in fact, written on February 12, and so it summarizes events that occurred up to that point. That was the date on which it was written. Let me describe the circumstances, if I might, about that particular entry that you referred to.

Mr. Altman was considering his recusal decision. Mr. Foreman, in his opening statement, went over some of those decisions.

In anticipation of his meeting at the White House, he had received a variety of pieces of advice from members of the Treasury staff, both in favor of recusal and against it. It was my understanding that when he went to that meeting, he was either planning to or leaning toward recusal. And when I spoke with him after that meeting, I believe it was the same day, he said that he was going to consider his decision and sleep on it.

I did not attend that meeting, and at no time did Mr. Altman say to me, I feel under intense pressure. I think I was surmising something or giving my impressions based on the circumstances as I knew them.

The CHAIRMAN. What were those? You picked those words. You're a very thoughtful person. You're the Chief of Staff now for the Secretary. You're obviously very talented. You would not have picked those words out of thin air. What do you base that on?

Mr. STEINER. As I said, Senator, Mr. Altman was receiving advice from Treasury staff at the time prior to the February 2 meeting. Most of it was in favor of recusal.

The CHAIRMAN. Let me narrow you down because we're under time limits for all of us.

I'm going to specifically focus on your choice of the words "but under intense pressure from the White House . . ." and I want you now to recall, as fully as you can, what the facts were that would have caused you to write those words.

Mr. STEINER. Mr. Altman returned from that meeting, and as I said, I spoke to him at some point that afternoon, and he described to me what were strong arguments made by Mr. Nussbaum at that meeting.

I suspect I, without choosing my words particularly carefully, interpreted those arguments as encouraging him in a direction—let me make it very clear that, at no point, did Mr. Altman say to me, I feel under pressure or the White House is pressuring me to do something; let me also make it clear, if I might, that to the best of my knowledge, Mr. Nussbaum was the only person who made

those comments on the subject of recusal so when I use the White House, it is a euphemism for Mr. Nussbaum.

The CHAIRMAN. I'd like you to now search your memory. When you say that Mr. Altman described to you what had been said by Mr. Nussbaum that created this impression of intense pressure, I want you to think, as carefully as you can, as to exactly how Mr. Altman would have described that to you. What did he say to you?

Mr. STEINER. I want to make it clear, Senator, that it was not my impression at the time that he was under intense pressure. As I said before, I did not write this diary for the purposes of providing a precise narrative.

Mr. Altman recounted to me what I believe were two arguments made by Mr. Nussbaum. I know that he has testified before on this subject. The first argument was that he was concerned about recusal as a precedent for other Administration officials. The second concern was that the RTC had a reputation for being a fairly partisan institution, and he was concerned that in Mr. Altman's absence, this investigation, which Mr. Altman had made clear that he wanted handled in a completely nonpartisan, nonpolitical matter, would be carried out in a partisan fashion. I believe those were the two concerns Mr. Nussbaum expressed.

The CHAIRMAN. Time is not going to permit me to go to your next entry right now, but that's much more important and it comes right behind your first entry that we just talked about, where you clarify and you say, "at a fateful White House meeting with Nussbaum, Ickes, and Williams, however, the White House staff told Roger Altman that it was unacceptable." That's now with respect to the recusal.

Now there's some words before that and after that, and I'm going to read those when time permits. But the 7-minute time periods here are limiting to us in that regard. It's very clear to me, from reading your diary, which you wrote to yourself, not thinking anybody would ever read it, that there was a problem here of Mr. Altman being under very significant pressure with respect to this decision. When I have the chance, I'll come back and lay out the remaining entries that you gave here, so that you can respond to those.

Senator D'Amato.

Senator D'AMATO. Thank you very much, Mr. Chairman.

The CHAIRMAN. Let me just ask unanimous consent that these entries go into the record.

#### OPENING COMMENTS OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. Let me go to this point Senator Riegle just touched on and that you just began to speak to. You said that one of the things that Secretary Altman told you was that Mr. Nussbaum advanced two reasons for not recusing himself, one being a precedent and the other being that the RTC was partisan and that, in the event that Mr. Altman stepped aside, he was concerned about them being partisan? Do you recall him saying partisan or tough? Because, I mean, there's been numerous accounts now, and everyone has used the word tough, and there's a big difference.

Mr. STEINER. I appreciate that distinction, Senator. I don't recall the precise words that Mr. Altman used. That was the impression

that I had at the time. I think the concern was, as I said before, Mr. Altman had made it very clear to Treasury staff and to RTC staff that he wanted this case handled in an identical fashion to all other cases at the RTC. That meant in a hands-off nonpartisan fashion.

Senator D'AMATO. Why would you brief the White House on the issue of recusal? Don't you think that goes into an area that shouldn't have been discussed?

Let me say this. Did you have any conversation with Roger Altman before the February 2 meeting at the White House concerning the subjects to be covered at that meeting?

Mr. STEINER. I recall meetings on the general subject of Madison and the general subject of recusal and the statute of limitations deadline. I do not recall meetings that specifically addressed the subjects for that meeting.

Senator D'AMATO. Did you testify in your deposition that the two subjects to be discussed were the statute of limitations applied in Madison and the issue of Roger Altman's recusal?

Mr. STEINER. It would be helpful, Senator, if I could see a copy of the deposition. I've now given testimony 5 times. It would be helpful if I could have a copy in front of me.

Senator D'AMATO. Page 142 of the deposition.

*Question:* What were you told the White House was going to be told about the recusal issue?

*Answer:* I believe that Mr. Altman planned to recuse himself.

Page 142 in the middle of the page. Is that your testimony?

Mr. STEINER. Just one moment, please.

[Pause.]

The CHAIRMAN. Have you been able to locate that page, Mr. Steiner?

Mr. STEINER. Yes, I have.

Senator D'AMATO. Do you see that on line 10?

Mr. STEINER. I do indeed.

Senator D'AMATO. "Question: What were you told the White House was going to be told about the recusal issue?"

Then what's your answer, line 12?

Mr. STEINER. I believe that Mr. Altman plans to recuse himself. As I testified this morning, I think he was planning to or leaning toward that direction.

Senator D'AMATO. So it was your understanding that Roger Altman planned to tell the White House of his decision to recuse himself. Is that correct?

Mr. STEINER. That is correct.

Senator D'AMATO. You testified that you had a meeting with Roger Altman shortly after he returned from the February 2 meeting at the White House. What did Mr. Altman tell you about the White House's reaction to his decision to recuse himself in the Whitewater case?

Mr. STEINER. As I said earlier, Senator, to the best of my recollection, he only related to me the reaction of Mr. Nussbaum in specific terms. As to the other attendants at the meeting, he said that they did not have particularly strong views about it one way or the other.

Senator D'AMATO. Let me refer you now, Mr. Steiner, to your testimony, page 144. Take a look at that, line 2. "Question: What did Mr. Altman say to you that had been said at the White House?"

Would you read your answer, starting from line 6?

Mr. STEINER. Line 6. "Second, that Mr. Nussbaum did not agree with Mr. Altman's plans to recuse himself."

Senator D'AMATO. Now what else did you talk about?

Mr. STEINER. I'm not sure I understand your question, Senator.

Senator D'AMATO. What else did Mr. Nussbaum say?

Mr. STEINER. As I said earlier, Mr. Nussbaum made arguments, to the best of my recollection as related to me by Mr. Altman, he gave two reasons why he thought recusal was not the wisest course of action.

Senator D'AMATO. One?

Mr. STEINER. I'm sorry?

Senator D'AMATO. One reason?

Mr. STEINER. Two reasons, Senator.

Senator D'AMATO. What was the first reason, court precedent?

Mr. STEINER. Court precedent, that is correct.

Senator D'AMATO. And the second, that he was afraid that the RTC would handle it in a partisan manner?

Mr. STEINER. That's correct.

Senator D'AMATO. If Mr. Altman left. OK.

Did you have an opinion as to whether or not, did you respond to the whole recusal discussion that you had with Mr. Altman, if you can recall?

Mr. STEINER. I'm sorry, I don't understand your question, Senator.

Senator D'AMATO. What was your opinion? You discussed this issue about recusal with Mr. Altman. What advice did you give him?

Mr. STEINER. I was in favor of Mr. Altman recusing himself.

Senator D'AMATO. What was Mr. Altman's reaction to the response of the White House to the decision to recuse himself when he mentioned that to them?

Mr. STEINER. I think he was surprised by the strength of Mr. Nussbaum's arguments, and that's about it.

Senator D'AMATO. He was surprised at the reaction?

Mr. STEINER. I think he was surprised by the strength of Mr. Nussbaum's arguments. Clearly, he was considering them carefully. Mr. Nussbaum is an articulate and thoughtful attorney. I think he wanted to weigh Mr. Nussbaum's advice carefully.

Senator D'AMATO. Is that why you came to the conclusion that he was under intense pressure from the White House?

Mr. STEINER. Let me state again, Senator, that I did not attend that meeting. I wasn't present to see Mr. Nussbaum.

Senator D'AMATO. But you had a feeling that there was intense pressure. This was your boss. You understood what he was going through? He wanted to be a good soldier. He goes in with the idea to recuse himself. He comes back, he's pretty much beat up, and now he's going to reconsider.

Were you aware, for example, that Jean Hanson had recommended that he recuse himself?

Mr. STEINER. I can't recall the individual positions of the members of the Treasury staff, Senator.

Senator D'AMATO. You mean the General Counsel and you never discussed this issue of recusal?

Mr. STEINER. We did, Senator, as I said.

Senator D'AMATO. What was her opinion, if you can recall?

Mr. STEINER. As I said, Senator, I cannot recall the individual positions of members of the Treasury staff.

Senator D'AMATO. What did George Stephanopoulos think about the issue of recusal?

Mr. STEINER. To the best of my recollection, Senator, I only had one conversation with Mr. Stephanopoulos.

Senator D'AMATO. What did he think about it?

Mr. STEINER. He thought it was the wiser course of action.

Senator D'AMATO. Wasn't there a basic agreement that he should step aside? Do you know if Secretary Bentsen had a feeling on this?

Mr. STEINER. Senator, I do not know whether Secretary Bentsen had a feeling on this. As to whether there was a general feeling about it, as I said before, I think Mr. Altman received different advice from different members of the Treasury staff at different times. Clearly, Mr. Nussbaum, who I said is an articulate and powerful attorney, had a different view.

Senator D'AMATO. Why did you believe Roger Altman should recuse himself in the case?

Mr. STEINER. I thought it was likely, Senator, that political pressure was going to mount for him to recuse himself, and rather than wait for that pressure to mount, it would be wiser for him to do it of his own initiative.

Senator D'AMATO. You testified that on or around February 16, you sought the views of Mr. Stephanopoulos on recusal. Why did you seek out his view on that recusal?

Mr. STEINER. I believe there are two reasons, Senator. First, Mr. Stephanopoulos is a thoughtful individual who provides useful counsel. The second was, to the extent that members of the White House staff felt that the wiser course of action was not to recuse himself, I thought Mr. Stephanopoulos could be helpful in persuading them that it was a wise course of action.

Senator D'AMATO. Thank you very much.

The CHAIRMAN. Thank you. I appreciate your staying within the time limit.

Senator Dodd.

#### **OPENING COMMENTS OF SENATOR CHRISTOPHER J. DODD**

Senator DODD. Thank you very much, Mr. Chairman. I'd like to welcome all of you here.

Let me begin, if I can, with you, Mr. Nye, just to try and do some house-cleaning.

I raised the point with Ms. Kulka, yesterday, regarding whether or not, at any point, Ms. Kulka had communicated to anyone that she believed that the RTC would be unable or unwilling to bring a complaint prior to February 28, when the statute of limitations would have tolled.

You attended a meeting on February 1 with the RTC, which was also attended by Roger Altman, Ms. Kulka, and Jean Hanson. Is that correct?

Mr. NYE. I believe that's right, yes.

Senator DODD. At that meeting, we've been told that there was a discussion about how the RTC would proceed with the Madison Guaranty case if the statute of limitations was not extended. Is that also correct?

Mr. NYE. Yes, that's correct.

Senator DODD. At that meeting, Ms. Kulka, the RTC General Counsel, stated that she was going to have to proceed with imperfect information on the Madison case. Is that also correct?

Mr. NYE. Yes, that's largely correct.

Senator DODD. Was there any question that she was going to proceed with the case at all in your mind?

Mr. NYE. No. There was not a question as to whether or not she would have to make a decision. We were always under the impression that she would have to make a decision, or a recommendation, as to one of the three courses of action.

It was simply a comment she made with respect to the circumstances which were presented to her as General Counsel of the RTC. This was, I believe, February 1, and she had to make a recommendation of one of three courses of action by the 28th.

That would require her to review or have her staff review significant amounts of documents and, just in terms of the amount of work to the amount of time, it was burdensome, or it would be very difficult to do, but there was never a question whether or not she would reach some form of recommendation.

Senator DODD. Let me ask you this very carefully, and I want you to think about your answer, because it's very important as to what other witnesses say the following day, and then how that information moves up. That is, at any point during that meeting, did Ms. Kulka indicate that she would not be able to bring a case because of the February 28 deadline?

Mr. NYE. Let me clarify one thing. There were three courses of action. One was to seek a tolling agreement, two was to file suit, and the third was to not proceed with the case based on insufficient evidence, an unworthy case.

So that was one of the options, but all three were going to be a decisive action and recommendation from her to the interim CEO, Roger Altman.

Senator DODD. I understand that, but I'll ask the question again. At any point, did she say she would not be able to because of the February 28 date?

Mr. NYE. To the best of my recollection, she never indicated that she could not take one of those three actions.

Senator DODD. Mr. DeVore, Jack, it's a pleasure to welcome you back to the Senate. I suspect you didn't anticipate coming back under these circumstances. But having spent some 20 years working with our former colleague, Lloyd Bentsen, let me, if I can, explore with you the whole issue of these press inquiries and the reputation of the RTC.

As you heard yesterday, it can almost be stipulated that the RTC was about as close to being a sieve as probably any agency. Some-

one described it as the easiest beat for a reporter to cover, it required no real effort to find out anything out of the RTC. Would you generally agree with that statement?

Mr. DEVORE. Yes, I would.

Senator DODD. As you've helped to coordinate, let me just clarify for the record here, as Assistant Secretary for Public Affairs at the Treasury, you've also helped to coordinate activities with other agencies, including the RTC. Is that correct?

Mr. DEVORE. That's correct.

Senator DODD. In the course of your dealings with the RTC, did it appear to you that the RTC had difficulties keeping information confidential?

Mr. DEVORE. A lot of difficulty.

Senator DODD. The reason I'm asking that is because yesterday, we heard a great deal, as I mentioned a moment ago, about the information coming out of the RTC.

In his deposition, Jack Ryan, the Acting Chief Executive Officer at the RTC explained the RTC's approach to criminal referrals. He stated that normally, the RTC does not confirm or deny whether a criminal referral has been made, but that it might confirm or deny whether there was a criminal referral, if it becomes so well known that it becomes a fact. Is that your understanding of the policy as well?

Mr. DEVORE. Senator, I had not been told in that detail just what the RTC policy was.

Senator DODD. Based on your dealing with them, does that sound like a credible explanation of what their policy is?

Mr. DEVORE. It sounds believable, but of my own knowledge, I don't know what the policy is.

Senator DODD. You received, I gather, a phone call from The New York Times on October 13, 1993. Is that correct?

Mr. DEVORE. October 11th.

Senator DODD. Could you tell us about that conversation?

Mr. DEVORE. Yes. The reporter called me, told me of an investigation that the RTC was undertaking in regards to Madison Guaranty. Told me a lot of details the reporter had received.

Senator DODD. Did you have the impression that the reporter had possibly read the criminal referrals?

Mr. DEVORE. I did not come away with that impression. No, I did not.

Senator DODD. But it was more than just the word criminal referrals; there was a lot of detail?

Mr. DEVORE. There was a lot of detail as to what was involved. A fundraiser, I think, in 1985, checks that were given to a fundraiser for Governor Clinton, what happened to the checks, they were sent off to a bank called Cherryvale or Cherry something. A lot of details.

Senator DODD. What did you do as a result of that inquiry?

Mr. DEVORE. I don't recall precisely who I notified, but I did notify people. In effect, we had a reporter making inquiries into an investigation at RTC of which I had previously been unaware. It was a surprise to me. I notified people at Treasury and possibly at the White House. I wanted to be sure the White House was aware that this reporter was nosing around.



Senator DODD. Would that be the normal way business would be conducted when information would come through a reporter involving possible questions either at the Treasury or the White House?

Mr. DEVORE. I'm not sure I can speak of anything about this case as normal. I always tried to approach each matter on a case by case basis. They all have differences. They all have individual requirements. In my experience, I have never run into anything like this. I just know that this reporter told me that the President and Mrs. Clinton were named in this investigation, although, they also indicated they were not targets of this investigation. I felt the White House should be told that the reporter was making these inquiries.

Senator DODD. Did he also ask for information and ask for you to get back to him regarding certain questions?

Mr. DEVORE. He asked if I could be of assistance to him. He expressed some sympathy to me. He was aware that I wasn't long for the Federal Government, that I was retiring within 2 weeks. And in the course of our conversation, he became aware that I had recently buried my father. He was apologetic, but, yes, he wanted to see if I could find out anything that would be helpful to him in his efforts to write a story.

Senator DODD. I see my time is up.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Gramm.

#### OPENING COMMENTS OF SENATOR PHIL GRAMM

Senator GRAMM. Thank you, Mr. Chairman.

Mr. Foreman, you're the Chief Ethics Officer of the Treasury Department, is that right?

Mr. FOREMAN. Yes, sir.

Senator GRAMM. Did Ms. Hanson ever ask you to give her your opinion on the ethics of calling Mr. Nussbaum and telling him that the President was referred to in at least 1 of 9 criminal charges that were being forwarded from the RTC to the Justice Department?

Mr. FOREMAN. No, Senator, she did not.

Senator GRAMM. I'm now asking you to try to put on your hat as an ethics officer. I tried in vain, yesterday, to get Ms. Hanson to give me her ethics judgment. I think one of the things we're trying to do here is determine what are the parameters that you have set for yourselves at the Treasury Department, at the White House, and at the RTC on how you deal with ethics and where this very fine line is.

In your opinion, is a potential press leak, which has appeared nowhere in print or on the electronic media, but one that you hear may occur, is that justification for notifying, directly or indirectly, a person who is referred to in a criminal referral? Would that be a breach of ethics to you if someone did that?

Mr. FOREMAN. Senator, that would have to be analyzed on the question of legitimate Government purpose. I'm trying to deal directly, as you phrase it, because my knowledge of the actual events last fall are very limited and sketchy, and I've heard a number of things in the last few days. But the way that you phrase it, the

question first is: Is the information nonpublic or not? I've heard a lot of testimony about that.

Senator GRAMM. Mr. Foreman, let me stop. I've been down this road 4 or 5 times. Let me go back and express it, so we can conserve time.

Mr. FOREMAN. Yes, sir.

Senator GRAMM. Ms. Hanson was notified by the RTC that there were 9 criminal referrals coming to Washington, and that at least 1 of them mentioned the President. She was also notified that there might be a press leak when this information got to Washington. That basically is her statement.

As the Ethics Officer of the Treasury, in your opinion, was it a violation of ethics at the Treasury for her to inform Mr. Nussbaum of these criminal referrals that made reference to the President, in light of the statement that there might be a press leak, even though nothing had appeared in the media?

What I'm trying to get at is, is it a justification to notify someone who is referred to in a criminal referral, which is confidential information, is it a justification to notify them because it might be leaked, in your opinion, with your hat on as the Chief Ethics Officer of the Treasury?

Mr. FOREMAN. Sir, I can only say that I heard you say that for her to notify Mr. Nussbaum in those circumstances, then you followed that by saying the person, themselves.

Senator GRAMM. He is counsel to the person who is referred to.

Mr. FOREMAN. He's the White House Counsel, and in those terms, my answer is, yes, sir, that would be, in my view, ethically OK for her to notify Mr. Nussbaum in the circumstances that you set forth on a possible press leak about something that might involve the President or the Presidency.

Senator GRAMM. Even on a criminal referral that makes reference to the President, something that under no other circumstances would be appropriate, in fact, it would be illegal, as I understand it, but in this case, because it might appear in the media in the future, it is OK to pass the information on to him?

Mr. FOREMAN. Sir, this has been—in my view, the Office of Government Ethics' analysis is an accurate one. They looked for a legitimate Government purpose to do this, and they found it in a situation related to the possible press leaks, and I agree with OGE's analysis in that situation.

Senator GRAMM. What about the other 8 referrals that didn't refer to the President?

Mr. FOREMAN. Sir, I'd have to look at that. It certainly raises a number of questions in the area of nonpublic information and the use of information.

I don't, to this day, know anything about any of the 9 referrals, much less the 8. All I'm saying is that in terms of a possible press leak about something, and I'm very familiar with the record of the RTC, that may involve the Presidency, I think it is appropriate to notify the White House Counsel about that.

Senator GRAMM. Mr. DeVore, let me ask you a couple of questions. Did you know about the September 29 meeting at the White House that Ms. Hanson attended?

Mr. DEVORE. I did not.

Senator GRAMM. You obviously knew about the October 14 meeting. Who asked you to go to that meeting?

Mr. DEVORE. Senator, I don't recall precisely who. It may have been Josh Steiner, it may have been someone else.

Senator GRAMM. When you got back from the October 14 meeting, who did you talk to about it?

Mr. DEVORE. Jeff Gurth, a reporter for The New York Times.

Senator GRAMM. Did you talk to Mr. Altman about it?

Mr. DEVORE. I did not.

Senator GRAMM. Did you talk to Secretary Bentsen about it?

Mr. DEVORE. I did not.

Senator GRAMM. To your knowledge, did Secretary Bentsen or did Mr. Altman know about the meeting on the 29th or the meeting on October 14?

Mr. DEVORE. I wasn't aware of the meeting on the 29th until the course of this investigation. To my knowledge, neither Mr. Altman nor Secretary Bentsen was aware of the meeting on October 14. In fact, Secretary Bentsen asked me, on March 3, whether I had advised him of the meeting that took place on October 14, and I assured him I had not.

Senator GRAMM. Mr. Steiner, I want to go back to your diary, and I want to make specific reference to your entry that related to the hearing that occurred before this Committee. You write:

At the hearing, the recusal amazingly did not come up. The GOP did hammer away at whether Roger Altman had any meetings with the White House. He admitted to having had one to brief them on the statute deadline. They also asked if staff had met, but Roger Altman gracefully ducked the question and did not refer to phone calls he had.

Now that was the impression that you had of the hearing. When did you enter that into your diary?

Mr. STEINER. On February 27.

Senator GRAMM. Did you ever have any discussion with Roger Altman about his testimony?

Mr. STEINER. Yes, Senator.

Senator GRAMM. Did you talk to him after the hearing about it?

Mr. STEINER. Yes, I did, Senator.

Senator GRAMM. Did you ever raise any question about whether or not his statement, that he had only one contact, was accurate?

Mr. STEINER. I don't recall any specific conversation on that, Senator. I recall that some time after the hearing, there were general discussions, prompted either by press inquiries or by the news that Mr. Altman had received about further contacts.

Senator GRAMM. Could you tell us—

The CHAIRMAN. Senator Gramm, I don't want to cut off your line of questioning, but I do want to stay within the boundaries, and we'll come back to this. We're not going to let this go by.

Senator Sasser.

#### OPENING COMMENTS OF SENATOR JIM SASSER

Senator SASSER. Thank you very much, Mr. Chairman.

I have a question for Mr. Steiner.

Mr. Steiner, let me read you another sentence out of your diary. And I quote from the diary:

As it turns out, RA's problem—and of course, RA is Roger Altman—RA's problem will probably pass when the Congress decides to extend the statute once again.

You're referring there, of course, to the statute of limitations on RTC civil suits and the issue of Roger Altman's recusal on the Madison question.

The President had signed a previous extension of the statute of limitations in December 1993. In signing that extension of the statute of limitations, it subjected Madison to possible civil action through February 28. In other words, it extended the statute up to February 28.

This suggests that you and probably others at Treasury were expecting another extension of the statute of limitations. Is that correct?

Mr. STEINER. That's correct, Senator.

Senator SASSER. The President ultimately did sign a document extending the statute of limitations and you expected he would sign that. Is that a fair assessment?

Mr. STEINER. Yes, sir.

Senator SASSER. So your point here about Mr. Altman's recusal, if I understand you, is that all of the discussions really didn't matter that much because Congress and the President would ultimately extend the statute of limitations and Mr. Altman wouldn't be faced with an immediate decision about whether to proceed against Madison or not?

Mr. STEINER. That's correct, Senator. We considered the issue to be moot.

Senator SASSER. All right.

Now, much has been made here about the possibility that information provided by Treasury to the White House concerning Madison might give the President's lawyers some advantage in negotiations about a tolling agreement, that is, an agreement to toll the statute of limitations relative to the Madison or potential civil suit against Madison. But if I understand you correctly, you and others at Treasury expected a further extension of the statute of limitations that would render a tolling agreement unnecessary?

Mr. STEINER. That's correct, Senator.

Senator SASSER. Well, let me just ask you this, Mr. Steiner. If that were the case, why so much concern about this? Why the meetings about it? In other words, if you and your colleagues at Treasury expected the statute of limitations to be extended so that RTC would have additional time to make a judgment about whether or not to proceed with civil actions against Madison or not, why the meetings, why the concern about it?

Mr. STEINER. Let me suggest two reasons, if I might, Senator. The first is that when this issue first came under consideration, it was not clear what action Congress might or might not take. The second, Senator, is that we were aware of the on-going confirmation hearings of Ms. Ricki Tigert, who was being considered for Chair of the FDIC.

In the process of her confirmation hearings, she was being asked repeatedly to recuse herself on this subject. We anticipated that similar requests or demands would be made of Mr. Altman.

We were considering the question in that light.

Senator SASSER. Was there some kind of effort at Treasury to withhold the truth about the meetings and the contacts on Madison?

Mr. STEINER. Absolutely not.

Senator SASSER. Do you, yourself, feel that these meetings and contacts were improper?

Mr. STEINER. No, I do not, Senator.

Senator SASSER. Why did you describe the February 2 White House meeting as you did in your diary, as a "fateful meeting"?

Mr. STEINER. Well, Senator, by the time I wrote that on February 27, The New York Times had run a front page story on that meeting. And The New York Times had, as well, written a fairly strongly worded editorial denouncing that meeting.

In hindsight, nearly 4 weeks after the meeting took place, I considered it fateful.

Senator SASSER. Maybe it was.

Let me ask you this question, Mr. DeVore. You've been in the business of being a press secretary for 20 years or longer and know something about dealing with the press and servicing the needs of the press.

Now, it was suggested here, yesterday, that perhaps the proper way to handle press inquiries on the part of the White House or the Treasury Department about Madison was simply to say "no comment." What do you think of that as a press strategy, and had that strategy been followed, what would have been the result?

Mr. DEVORE. My general philosophy is, if you're going to succeed as a flak, you need to be three things.

Senator SASSER. Don't disparage that profession, Mr. DeVore.

Mr. DEVORE. It's my own, Senator.

If you're going to succeed as a flak, you need to be accurate, honest, and responsive. And to adopt a posture of no comment begs the question. You won't succeed.

Senator SASSER. If you adopted a policy of "no comment," I can just imagine what the lead on the story would be. White House and Treasury stonewall on Madison inquiry. However, informed sources say that criminal referral is imminent.

Mr. DEVORE. That's correct. In the vast majority of cases, refusing to comment would not kill a story; it would simply leave the field free for others to fill in the story with their comments.

Senator SASSER. The story is going to go on whether we make a comment or not. I think that's a fair assessment.

Mr. DEVORE. That's correct.

Senator SASSER. Mr. Steiner, you had a rather widely reported private conversation with George Stephanopoulos about the hiring of Jay Stephens, did you not?

Mr. STEINER. Yes, I did, Senator.

Senator SASSER. You knew of Mr. Stephens' background, I assume you knew of his background, as an ardent opponent of the White House. The new Administration had, in essence, fired him as U.S. Attorney. Knowing of Mr. Stephens' background as an opponent of the White House, were you surprised that Mr. Stephanopoulos was angry?

Mr. STEINER. No, I was not.

Senator SASSER. What did George Stephanopoulos say to you about Jay Stephens?

Mr. STEINER. To the best of my recollection, Senator, he asked me how Mr. Stephens had come to be hired. And I explained to

him, as I understood it, there was a panel or board at the RTC that reviewed bids on contracts and that this panel or board had selected him.

He then said that he thought Mr. Stephens faced a conflict of interest, given his relationship with the Administration and the fact that when he was considering, I believe, a candidacy for Senator, he had said some strongly worded things in opposition to the Administration.

He asked me if these public comments in opposition to the Administration shouldn't disqualify him from the post. I explained to him that even if they did or should, it would be impossible for us to do anything about it.

Senator SASSER. My time has expired. Thank you, Mr. Chairman, and thank you, Mr. Steiner.

The CHAIRMAN. Thank you, Senator Sasser.

Senator Bond.

#### **OPENING COMMENTS OF SENATOR CHRISTOPHER S. BOND**

Senator BOND. Thank you very much, Mr. Chairman.

Mr. Foreman, you have discussed the circumstances in which it was appropriate to share nonpublic information with the White House. If there were some nonpublic information that affected the Secretary of Commerce, would it be appropriate to notify the General Counsel at Commerce?

Mr. FOREMAN. Senator, the question is, is there a legitimate Government purpose involved as the Office of Government Ethics Analysis put forward. One would have to look at the situation and see if there's a legitimate Government purpose in doing so or not.

Senator BOND. If there was a possibility that there might be a press leak about the Secretary of Commerce, would it then be appropriate to advise the General Counsel to the Secretary of Commerce that there was some very important, nonpublic information affecting the Secretary that might be the subject of a press leak?

Mr. FOREMAN. Possibly. However, sir, if I may just add one comment. The White House is a special place. I think we can look around the room today and see the intense press interest in anything that involves the President or the Presidency or the White House.

All I can say is, in my experience over the years, generally speaking, White House Counsel would like to not be surprised at things that are going to happen, including press inquiries and leaks. I think that's a legitimate Government purpose to tell the White House Counsel about certain information that has been, or is, or will be leaked, but that's obviously also a very, very difficult situation to analyze and one has to look at all the circumstances.

In fact, I think it's less likely in the hypothetical that you propose that it would be appropriate to tell Commerce Counsel, but you would have to look at all the facts and circumstances.

Senator BOND. I can assure you that Members of this body, a Senator, for example, who was about to be named in a criminal referral, would certainly prefer not to be surprised and to have his or her counsel notified of perhaps a criminal referral.

Maybe we could come at it the other way, Mr. Foreman.

In your job as Ethics Officer, can you conceive of nonpublic information coming to the attention of an official for whom you serve as the Designated Ethics Officer, where it would not be appropriate to tell the White House Counsel that there was some very embarrassing news about the President or the First Family that might be coming out? Is there a circumstance that you could conceive of?

Mr. FOREMAN. Sure.

Senator BOND. Tell me about it.

Mr. FOREMAN. Yes, sir, if I may. I'm thinking of your question.

Certainly, there might be circumstances in which it would not be appropriate to tell the White House. When I mentioned no surprises, I didn't mention no surprises that such a person might be mentioned. What I mentioned was for the White House Counsel to be aware that there may well be news stories about a subject involving the White House.

Sir, if I may say, but I'm sure there would be circumstances where I think you said I may have nonpublic information that concerns the President and the First Family that should not be passed onto the White House.

Senator BOND. That might be the subject of a press leak?

Mr. FOREMAN. I believe I could probably conceive of such situations.

Senator BOND. Under the standards you've set, I would be hard pressed, and I would be anxious to hear you come up with one.

Mr. FOREMAN. Senator, as I understand, I have to regret again, I have so little knowledge of what happened last fall, I've looked at the Office of Government Ethics Report. I think one has to be very, very careful about what kind of nonpublic information, if any, is passed on to the White House Counsel.

I do not know exactly what was passed on in that situation. I think that it probably was appropriate to mention some things, and it might not have been appropriate to mention more details.

As I see in the press reports, and only that, the President, himself, and the First Lady, were not targets of this. They were mentioned. I think that's a different circumstance. I think, in my own personal opinion, if people had been targeted, I think it changes the situation dramatically. But, again, I'm only speaking from press reports.

Senator BOND. They are mentioned in a criminal referral as possible beneficiaries. It's appropriate to tell the President's, the White House Counsel in that instance, if they were a target? That's the distinction?

Mr. FOREMAN. That's a distinction that one could draw, sir. All I can do is go by the hypotheticals that you propose because I am not able to sit here and say that there is no situation involving press stories, which I think is a legitimate Government purpose, in which the White House Counsel cannot be told anything about a possible criminal referral.

Senator BOND. Do you think it is likely, in this day and age, that if you tell the President's Counsel about a criminal referral, that the President's Counsel will keep that information from the President?

Mr. FOREMAN. I think that's a decision for the Counsel to make, sir. I noted that Mr. Cutler, when he took the position, made it

very clear that he was Counsel to the Office of the Presidency, and not Counsel for the President.

I think that all of this is going to bring this much more to all of our attention for next year, and perhaps we would have been more thoughtful, all of us, last year if something like this had occurred. But in the future, I think we've learned something from all of this.

Senator BOND. I am very much concerned about the low standards which have been applied.

It is possible, as you know, that a witness in a criminal referral could become a target, and I think that is a distinction without a difference.

You have put great stock in the report of the Office of Government Ethics. You have said it's justified because of the press leak.

Yesterday, as we got a hold of this report of the Office of Government Ethics, on page 6, the OGE states very clearly the fact that information has been leaked would not cause an agency to consider the information to have lost its nonpublic character.

It then goes on to say, it is clear from the decisions in these cases that a waiver of the Freedom of Information Act exemptions has not occurred because of an unauthorized disclosure.

It cites *Simmons v. Department of Justice*, a Fourth Circuit case; *Medina Incorporated v. Department of State*, a D.C. Circuit case, and *Resolution Trust Corporation v. Dean*, a 1993 case. Are you familiar with those cases?

Mr. FOREMAN. No, sir, not directly, but I agree with the sentiment expressed.

Senator BOND. You agree with the sentiment expressed that the press leak doesn't make it nonpublic information, yet it is a justification for sharing that information?

Mr. FOREMAN. Senator, I don't think that is the justification that the Office of Government Ethics presented for the sharing of the information. I believe they said that there well could be some nonpublic information there, but that there was a legitimate Government purpose for sharing it with White House Counsel. I believe that was their analysis.

Senator BOND. Thank you, Mr. Chairman.

The CHAIRMAN. I'm sure we'll discuss that further.

Senator Shelby.

#### **OPENING COMMENTS OF SENATOR RICHARD C. SHELBY**

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Steiner, just for some background, what's your educational background? Where did you go to school?

Mr. STEINER. I went to Yale University.

Senator SHELBY. Undergraduate?

Mr. STEINER. That's correct, Senator.

Senator SHELBY. Do you have a post-graduate degree?

Mr. STEINER. I do in history.

Senator SHELBY. Where is that from?

Mr. STEINER. University College Oxford.

Senator SHELBY. Oxford University. And you worked with Father Healy when he was at New York University heading the library. Is that correct?



Mr. STEINER. That's correct, Senator.

Senator SHELBY. Were you his special assistant there?

Mr. STEINER. That's correct.

Senator SHELBY. How long were you in that job?

Mr. STEINER. A year and a half.

Senator SHELBY. In your adult life time, have you done some writing on your own? I'm not just speaking of your diaries. Have you published articles?

Mr. STEINER. I spent one summer as an intern at a magazine. That's the extent.

Senator SHELBY. What magazine was it?

Mr. STEINER. Teenage Magazine.

[Laughter.]

Senator SHELBY. Were you a writer?

Mr. STEINER. I was a writer and an expert at the time.

[Laughter.]

Senator SHELBY. You were a writer and what, sir?

Mr. STEINER. I was a writer for them, an editorial intern, Senator.

Senator SHELBY. When you were at Yale University, of course, you did a lot of writing as a student, did you not?

Mr. STEINER. Yes, I did.

Senator SHELBY. At Oxford University, what college were you associated with there?

Mr. STEINER. At Oxford, Senator? University College.

Senator SHELBY. How long were you there, for 2 years?

Mr. STEINER. Just 1 year, Senator. One year master's program.

Senator SHELBY. Do you believe, from your background, your education, and so on, that words are important?

Mr. STEINER. Yes, I do.

Senator SHELBY. And when you choose words, you make a decision, we all do, don't we?

Mr. STEINER. I think the context in which you use them makes a big difference.

Senator SHELBY. Sure, but the choosing of words themselves is important.

Mr. STEINER. Depending on the circumstances, that's correct.

Senator SHELBY. If we stipulate that you're a very well-educated man, Yale, Oxford, just for the sake of questioning here, your diaries that we've been referring to, these diaries were made more or less, maybe not the same day that you had some observations or something you participated in, but more or less contemporaneous with events, were they not?

Mr. STEINER. Some of the entries, Senator, were a month after the fact.

Senator SHELBY. Within a few weeks or a month, is that right? Some the same day or so, were they not?

Mr. STEINER. All of them were at least 3 days after the fact.

Senator SHELBY. But these diary entries were based on your reflections of events as they unfolded at the time that you wrote them?

Mr. STEINER. Let me go back to what I said earlier, Senator, because I think it might be helpful, which is that my purpose in keeping this, and I've kept it for a long time in very different cir-

cumstances, when I've been traveling or when I've been visiting family.

Senator SHELBY. I didn't ask you your purpose in keeping them. We've got an idea of your purpose. We're getting into the content of what's in the diaries.

Mr. STEINER. I understand, Senator. I think the purpose for which one does something makes a difference in terms of what one writes.

Senator SHELBY. Well, go ahead, what was your purpose, to write a book?

Mr. STEINER. No, it was not, Senator. It was to reflect upon personal and professional experiences and see whether I could draw some lessons from what had taken place.

Senator SHELBY. Have you, throughout your life, noted things in what we'd call a diary?

Mr. STEINER. I've done it for over 6 years now.

Senator SHELBY. Six years. You did this when you were at New York University?

Mr. STEINER. I did this when I was in New York, yes, sir.

Senator SHELBY. Did you do it in school?

Mr. STEINER. I started doing this in 1988.

Senator SHELBY. I want to refer to some of your diary entries. I'll just quote here, from 2/13, 2/27, line 7 forward:

Every now and again, you watch a disaster unfold and seem powerless to stop it. For weeks, we've been battling over how RA——

That's Roger Altman, right?

Mr. STEINER. That's correct, Senator.

Senator SHELBY. You said:

—Roger Altman should handle the RTC investigation of Madison Guaranty Savings & Loan. Initially, we all felt that he should recuse himself to avoid even the appearance of a conflict.

And then you get into another word you use.

At a fateful White House meeting with Nussbaum, Ickes, and Williams, the White House staff told Roger Altman that it was unacceptable.

What was unacceptable, his recusal?

Mr. STEINER. Let me clarify, Senator.

Senator SHELBY. I don't want you to clarify. Is that your reference that his recusal was unacceptable?

Mr. STEINER. My reference is that Mr. Nussbaum made strong arguments against recusal.

Senator SHELBY. Mr. Nussbaum. Did anyone else besides Mr. Nussbaum make strong arguments at the White House meeting against Roger Altman recusing himself?

Mr. STEINER. I did not attend that meeting, but to the best of my knowledge, no.

Senator SHELBY. Then you refer to this Senate Banking Committee oversight hearing, this group of Senators here, at the hearing, and the recusal amazingly did not come up. Obviously, you all were very concerned about it coming up.

Mr. STEINER. Could I make a point on that entry if I might, Senator?

Senator SHELBY. Yes, sir.

Mr. STEINER. We were anticipating——

Senator SHELBY. You were anticipating questions about it, were you not?

Mr. STEINER. We were anticipating questions specifically about why Mr. Altman had not recused himself. I was surprised that those questions did not come up, nor to the best of my recollection did any Senators request that Mr. Altman recuse himself. That surprised me, yes, sir.

Senator SHELBY. Mr. Steiner, do you believe that when a Cabinet member, a sub-Cabinet member comes before a Committee like the Banking Committee or any Committee, for an oversight hearing, that they should be forthright, they should be candid, and they should be honest in answering questions?

Mr. STEINER. Yes, I do, very strongly, Senator.

Senator SHELBY. In your entry here, you also are referring to the oversight hearing by the Senate Banking Committee, and you said, "but Roger Altman, RA, gracefully ducked the questions and did not refer to phone calls he had." Is that being candid with this Committee?

Mr. STEINER. Senator, I believe what Mr. Altman said, and I'm sure he'll have an opportunity to explain to you exactly what he said himself, but I believe what he said was that he'd had one substantive meeting when we were preparing for his testimony. That was the only meeting that came up as part of our preparations.

For example, I did not even recall the October meeting until I was reminded of it some time later. And so, I think, that is the reason Mr. Altman answered the question the way he did.

Senator SHELBY. Going back to words, again, when you use the word "substantive meeting" instead of "meetings," was that a way to dodge the real question that was asked by one of the Members of this Committee? That's your reference, isn't that right? He "gracefully ducked the questions." Isn't that your reference? It couldn't be anything else, could it? He gracefully ducked the question by answering, "I had one substantive meeting," rather than being honest and candid and telling the Banking Committee of all the meetings he had.

Mr. STEINER. Let me be clear on this, Senator. I think, to the best of my knowledge, that Mr. Altman was truthful and forthright before this Committee, and when he answered that question, he referred to the one substantive meeting that he knew about.

Senator SHELBY. Well, if he was honest, forthright, and candid before this Committee, why did you put in your diary that he gracefully ducked the question?

Mr. STEINER. I cannot recall, Senator, why I wrote the words that I did.

Senator SHELBY. We've got a convenient memory here today, but these diaries speak for themselves, don't they?

Mr. STEINER. Senator, I'm here testifying today under oath. I've already stated the circumstances in which I wrote these, and I'm being as forthright as I possibly can.

Senator SHELBY. Mr. Chairman, one last word I want to touch on. You also put in your diary, we spent a tortured day trying to decide if he should recuse himself. Do you recall using that word, a "tortured" day to describe the day? That was a tough day, was it not?

Mr. STEINER. It was a tough day, Senator, that's correct.

The CHAIRMAN. Senator Shelby, I don't want to be arbitrary in cutting you off, but we're holding everybody to the time limit. This is important and we'll come back to it.

Senator SHELBY. Thank you.

The CHAIRMAN. Senator Mack.

#### OPENING COMMENTS OF SENATOR CONNIE MACK

Senator MACK. Thank you, Mr. Chairman.

Mr. Steiner, I want to just continue on with a question or two. This goes back to the recusal discussion earlier. I think you were asked, a few minutes ago, why you recommended that Mr. Altman recuse himself.

Mr. STEINER. That's correct.

Senator MACK. I think what you said was something like the political pressure is going to build. It would be better to do it now as opposed to later. Is that close?

Mr. STEINER. That's correct, Senator.

Senator MACK. Were there any other reasons, in your mind, as to why he should recuse himself?

Mr. STEINER. Senator, I thought that in the absence of a recusal, it would open him to possible political accusations and I wanted to prevent those accusations from occurring.

Senator MACK. What kind of political accusations?

Mr. STEINER. The kind that we have seen recently, that he is somehow interfering or trying to protect people through his role as interim CEO of the RTC.

Senator MACK. So it was only the appearance that concerned you, is that correct?

Mr. STEINER. Senator, Mr. Altman had made it very clear on numerous occasions, both to the Treasury staff and the RTC staff, that he wanted this case handled in identical fashion to all other cases. What that meant was that at no point did he anticipate making a decision about this case or being involved in the investigation. And in the event that a decision was brought to him, he planned to follow the advice of the General Counsel.

Senator MACK. Again, your concerns were not things about confidentiality, about propriety, about conflicts of interest, it was the perception, from a political point of view, as to how it would be received?

Mr. STEINER. That's correct, Senator. As I said, Mr. Altman made it very clear that he wanted this case handled in an identical fashion.

Senator MACK. I appreciate that. I just wanted to get a clear statement of what your thinking was.

Mr. DeVore, I too wanted to welcome you back to the Senate, to this Committee.

Calling your attention to the meeting you attended at the White House with Ms. Jean Hanson on October 14, 1993, it is my understanding that this was supposed to be a meeting to discuss press leaks, that is, stories that were likely to appear in the next few days on Madison. Is that correct?

Mr. DEVORE. Senator, that wasn't my understanding. My understanding was that when I received the call from the reporter, and

I sent word out that the reporter had called me and what he told me, that it was a meeting convened primarily to listen to my account of what the reporter had to say. I was not aware of any stories that were imminent.

Senator MACK. Did you set up the meeting?

Mr. DEVORE. Not in my recollection, I did not.

Senator MACK. Do you have any idea who did?

Mr. DEVORE. I do not.

Senator MACK. This was a meeting then, to discuss a press inquiry?

Mr. DEVORE. Let me not speak to the purpose of the meeting; let me speak only to why I thought I was going to the meeting. I thought I was going to the meeting to tell the White House something I didn't know they knew, and that is that this reporter for a major newspaper had a lot of information on an investigation being conducted by the RTC.

Senator MACK. So you were surprised then at what you heard at the meeting?

Mr. DEVORE. There were one or two surprises, yes, sir.

Senator MACK. What were those surprises?

Mr. DEVORE. Well, one of the things I learned is that a couple of other reporters had been talking to the White House about this matter. I had not been aware of that.

Senator MACK. But you thought you were going there to give them information?

Mr. DEVORE. Yes, sir.

Senator MACK. Do you remember who was at the meeting?

Mr. DEVORE. Yes, sir. From the Treasury, it was Jean Hanson, Josh Steiner, and me. From the White House, it was Bernard Nussbaum, Bruce Lindsay, Mark Geron, and there were some other people whose names I didn't know who were in and out of the meeting.

Senator MACK. The point was that most of those people, as I understand it, were attorneys doesn't say anything about what the meeting was all about?

Mr. DEVORE. I don't understand your question.

Senator MACK. I was under the impression, frankly, that this was a meeting that was called for the purposes of discussing press inquiries. I had just assumed that it was going to be a meeting of press types and was surprised when I saw the list of people who were there. It seemed like it was a group of attorneys.

Mr. DEVORE. Well, I was there, of course, and I deal in press matters. Mark Geron was there. He was the Communications Director for the White House. I was somewhat surprised to see Bruce Lindsay, but I learned that, in fact, Mr. Lindsay handled press inquiries that involved matters that had occurred in Arkansas.

It's not unusual, if you're going to have a press meeting, to have others sit in for several reasons. Nonpress people can sometimes offer good advice to press people.

Senator MACK. Were you surprised that the RTC press person was not there?

Mr. DEVORE. No.

Senator MACK. Why not?

Mr. DEVORE. My recollection, from my perspective, is that the primary information the reporter who had talked to me was interested in, involved endorsements on the checks that had been contributed to this fundraiser back in the mid-1980's. I didn't know the RTC would know anything about that, whereas the White House might.

Senator MACK. Why did you not think that the RTC would have knowledge about those checks?

Mr. DEVORE. Well, since the funds had been contributed to Governor Clinton and most candidates are careful to keep records of who made the contributions, I just assumed they would be more likely to have it.

Senator MACK. Who were the checks from that were in question?

Mr. DEVORE. I don't know.

Senator MACK. Was McDougal one of them?

Mr. DEVORE. I don't know.

Senator MACK. You formerly testified that the earliest you ever remember even receiving a press inquiry was October 11, 1993. Is that correct?

Mr. DEVORE. That's correct, with one qualification. The earliest I recall receiving a press inquiry which let me know that the RTC was actively continuing to investigate the Madison Guaranty situation, that came as a surprise to me.

Senator MACK. When was that, did you say?

Mr. DEVORE. October 11th.

Senator MACK. Ms. Hanson testified yesterday that Mr. Altman called you both down to his own office for a meeting on October 11 or 12, 1993. Do you recall that meeting?

Mr. DEVORE. I do not.

Senator MACK. She testified that during that meeting, that Mr. Altman was engaged in a discussion about how to respond to the press inquiry from Mr. Gurth. Does that refresh your recollection?

Mr. DEVORE. No, sir, it does not. I don't recall that meeting.

Senator MACK. You don't recall that meeting at all?

Mr. DEVORE. Not at all.

The CHAIRMAN. Thank you, Senator Mack.

Senator Kerry.

#### OPENING COMMENTS OF SENATOR JOHN F. KERRY

Senator KERRY. Thank you, Mr. Chairman.

Welcome.

Mr. Steiner, I know this is the last place in the world that you ever imagined yourself being under the circumstances. I know it's highly uncomfortable.

I know of you, as others do, as a person of enormous ability, extremely talented, moral, idealistic, and I think that all of that leaps out of your diary. As a matter of fact, I think your character, which I don't question, I think you show the evidence of your character in your own diary in a number of different places.

Your judgment is good, you see things coming. You perceive the dangers, you showed the acumen that, I think, was present in your being appointed to the position that you're in. And, indeed, you had the good common sense, when George Stephanopoulos was angry and firing off steam, as anybody would have been angry, incident-

tally, I think being honest about the circumstances, and your reaction was you persuaded George that doing anything would have been stupid and improper in terms of Stephens, and he cooled down. But that was good judgment.

In addition, you drew lessons. You said the lesson of all of this is do what you think is the right thing early; recuse. You said remember everything might eventually be asked about under oath. Don't let the White House get involved in any way. These are good instincts.

Indeed, you didn't draw the wrong lessons. You also, later on, said, "such an incredible city that's been battling with RTC/Madison, wrote 2 pages about what's been going on, suddenly realized, I could be subpoenaed like Packwood's, and the most innocuous comments could be taken out of context."

So on that subject, nothing, and you didn't destroy your diary. You left your diary. We have it. I think there is, in all of this, a very refreshing kind of truthfulness, almost innocent observation of the goings on of Washington.

It, therefore, troubles me, a little bit, that you now want to distance yourself to a certain degree or try to cast some nuances on it, though I'm not sure that's where you're going. I want to try to explore it a bit.

There are five separate references in your two extractions to the subject of recusal.

First, you say should RA recuse himself or should he stay involved. You discuss the hurdle and that's between January 24 and February 12. Then later on, between February 13 and 27, so we're spanning the period of about a month here. You then say, for weeks, we have been battling over how RA should handle the investigation. Initially, we all felt he should recuse himself.

Then you have the White House saying it was unacceptable. Then you say, at the hearing, the recusal amazingly did not come up, with a sense of relief that this great topic of recusal didn't come up. Then you say, the next day The New York Times ran a front page story. The heat was on. We spent a tortured day, which has been referred to by Senator Shelby, trying to decide if he should recuse himself. Again, recusal is front and center.

All of a sudden, despite all of this torture, despite all of these weeks of discussions, despite all of the pressure, Hal Raines seems to be able to elicit from Roger Altman what no one else could, which was a quick recusal on the telephone. Again the recusal is sort of front and center.

Now, if you go into your preparation of all of the questions with Mr. Altman appearing before this Committee, why are you unwilling to recuse yourself?

And he answers the question, or the suggestion was, well, I will not—what is it, play any role in the RTC's eventual decision, I will not be doing so. I will, therefore, have no role in the RTC's decisions on the matter.

Next, you should still recuse yourself, why don't you?

As I said, I'll have no role in the RTC's decisions on pursuing the claim.

These are all, these are not the actual answers; these are suggestions. But most of all, Senator, the circumstances are such that I'll not be playing any role.

Again, doesn't your relationship with the President and Mrs. Clinton require recusal?

Answer, again being proposed, I'll not be playing any role; therefore, there won't be any appearance of conflict.

I am absolutely struggling to understand why it merited being such a tortured process. Why there was such weeks and weeks of discussion. Why you spent days on this issue, if he isn't going to have any role, if he isn't going to make any decision, if he isn't going to be involved. Then why did it matter whether he stayed or not?

You've said here there were only two reasons for his staying, the precedent and to guarantee impartiality. How do you guarantee impartiality if you're not going to play any role?

Mr. STEINER. The second point that you make, how do you guarantee impartiality if you're not going to be involved. I think Mr. Altman had said repeatedly, both to RTC and Treasury staff, that he wanted this case handled in a completely impartial, nonpolitical fashion. That's how you guarantee impartiality.

Senator KERRY. I'm not sure if you're not involved and you're not playing any role, you can't know what's going on.

To guarantee impartiality, you have to make a decision. You have to say, no, you can't do that. Don't pursue this or don't pursue that.

If you're genuinely leaving the investigation up to Kulka, what on earth was there to remain involved for?

Mr. STEINER. Senator, I think Mr. Altman sent out a clear direction as to how he wanted this case handled. That's what executives often do. They give clear direction as to how they want something to proceed.

Senator KERRY. Was there any indication from Mr. Ryan or Ms. Kulka that it would proceed any way than otherwise?

Mr. STEINER. I don't believe so. No, Senator.

Senator KERRY. Then what was the concern?

Mr. STEINER. The concern, as I mentioned, as mentioned by Mr. Nussbaum.

Senator KERRY. I understand the concern expressed by Mr. Nussbaum, and he'll be here, as will others, to explain it. I'm just trying to understand.

I think your diary is very refreshing. I think it's very honest. I know you. I know you're honest, and I know the idealism with which you approach this process. I think you have nothing but the highest public motives at stake. You are the kind of person we need involved in public service. You certainly weren't writing the diary for the purposes of being untruthful, were you?

Mr. STEINER. Senator, absolutely not.

Senator KERRY. I assume you wanted to have the most accurate diary you could have had, don't you?

Mr. STEINER. I want to repeat, Senator, if I could, and I'm sure you're getting tired of hearing this, but the purpose was not to write a precise narrative or to give an exact chronology of what took place.



Over the past 5 months, I've had to live with this document, and I've had to go and testify under oath about exactly what I knew and exactly what I think occurred. That's what I'm trying to do for you today.

Senator KERRY. I appreciate that, but my time is up. I don't want to cut you off at all. My time is up, and I want to stick by the time limits.

The CHAIRMAN. Thank you.

Senator Faircloth.

#### OPENING COMMENTS OF SENATOR LAUCH FAIRCLOTH

Senator FAIRCLOTH. Thank you, Mr. Chairman.

I'll go to Mr. Steiner also. And if you will, pull that microphone real close and speak a little slower.

Mr. STEINER. Yes, sir.

Senator FAIRCLOTH. You testified that you believe that Roger Altman was candid with the Committee, yet you wrote in your diary that Altman gracefully ducked the recusal issue. Is it your testimony that being candid and gracefully ducking are consistent?

Mr. STEINER. Senator, I don't believe that he ducked any questions about recusal. I don't believe he was asked any questions about recusal.

Senator FAIRCLOTH. What do you mean by gracefully ducking the recusal issue?

Mr. STEINER. The illusion here, Senator, is not to the recusal issue. The illusion is to questions concerning the Treasury-White House contacts.

Senator FAIRCLOTH. Do you mean to tell me avoiding answering questions on the issue when you say you're ducking, is that what you mean?

Mr. STEINER. Senator—

Senator FAIRCLOTH. Give me your description of ducking a question.

Mr. STEINER. Senator, as I said, I think Mr. Altman was truthful in his testimony before you.

Senator FAIRCLOTH. Is truthful and ducking consistent in testimony?

Mr. STEINER. I think Mr. Altman was asked a question which he did not anticipate, and he answered in a way that allowed him to convey the information in the clearest possible way that he could.

Senator D'AMATO. Mr. Steiner, if I might, what question are you referring to that he did not anticipate?

Mr. STEINER. I believe he was asked about Treasury-White House contacts.

Senator D'AMATO. Would it change your mind if you were to know that the evening before, in a conversation with me, that I had advised him that we would be asking him directly what contacts he had, and Treasury had, with the White House. Were you aware of that phone conversation I had with Mr. Altman?

Mr. STEINER. No, I was not, Senator.

Senator D'AMATO. Would that change your mind? If I told him, the evening before, we are going to ask you what contacts you, or Treasury, or your staff, and the staff at the White House have had.

Senator FAIRCLOTH. And you're telling me that he gracefully ducked the questions. He knew what was going to be asked.

Mr. STEINER. Well, Senator—

Senator FAIRCLOTH. The whole thing is, he knew what he was going to be asked. He wasn't surprised. And you're saying that he very gracefully ducked. So, in other words, I don't know, make a distinction between ducking and lying?

Mr. STEINER. Senator, if I were to describe that testimony today, I would undoubtedly choose different words.

Senator FAIRCLOTH. What now?

Mr. STEINER. If I were to describe the testimony today—

Senator FAIRCLOTH. I'm sure of that. I've never doubted that. Lord have mercy. I knew you'd use different words today. But you tell me the difference between ducking and lying?

Mr. STEINER. Senator, as I said before, I do not believe that Mr. Altman lied or attempted to mislead this Committee. I believe he spoke truthfully and to the best of his knowledge.

Senator FAIRCLOTH. If ducking's not misleading—ducking is misleading, now what does lying do?

Mr. STEINER. Senator, as I said, I have no reason to believe, nor do I believe, that Mr. Altman lied to this Committee.

Senator FAIRCLOTH. But he ducked?

Mr. STEINER. Senator, I think he was asked a question which he didn't anticipate.

Senator FAIRCLOTH. In fact, you kind of admired his ducking because you said he ducked gracefully rather than clumsily. I mean, that's nicer ducking than kind of stumbling through a duck, to gracefully duck.

Mr. Foreman.

Mr. FOREMAN. Yes, sir?

Senator FAIRCLOTH. In your deposition, you testified about a conversation you had with Beth Nolan who worked for Bill Clinton in the White House. In that conversation, you said that you told her that there was concern about the possibility of new leadership at the RTC, in other words, somebody besides Altman. You said the concern was that the new leadership might, and I quote, "come up with some off-the-wall decisions relative to the Madison civil case."

Mr. Foreman, as Ethics Director, why should you care whether someone other than Roger Altman made the decision about the Madison Guaranty civil case? You're the Ethics Director. You're supposed to be grading them, not directing them.

Mr. FOREMAN. Senator, excuse me. That was not my comment from my head. I was passing on something that I had heard.

Senator FAIRCLOTH. Wait a minute, what now? Who were you passing it on from?

Mr. FOREMAN. To the best of my recollection, Ms. Hanson said to me, something like there was concern because the other leadership in the RTC was brand new in their positions and someone had expressed a concern that there was no experience with the thoroughness and fairness with which they made decisions. That was the basis of the comment that I passed on to Ms. Nolan.

Senator FAIRCLOTH. I would think the Ethics Director, you're somewhat of a judge. You're supposed to be setting the example, isn't that right?

Mr. FOREMAN. I would like to think so.

Senator FAIRCLOTH. So you're worried about passing on information as to who might come up with something different would produce a different outcome from what you all were hoping for.

Mr. FOREMAN. Senator, that's not what that comment goes toward. One of the factors, when one looks to decide to make a discretionary decision of whether to recuse is looking at the other people who would be making the decision if that person doesn't. It's one of the factors listed in section 5.02. I was merely passing on a comment that someone had made to me.

Senator FAIRCLOTH. Let me ask you another question, then, and if you'll be shorter in your answer, Mr. Foreman.

In depositions, we have learned that you had a conversation with Jean Hanson who testified here yesterday for 8 hours. In that conversation, you and Jean Hanson talked of concerns that Ellen Kulka would be the one making the decisions about Madison Guaranty.

Yesterday, we learned that Ellen Kulka is regarded as being a tough lawyer. If you weren't trying to influence the outcome of the decision on whether to file civil cases in the Madison matter, why were you concerned about a tough lawyer being the one to make the decision?

Mr. FOREMAN. I wasn't concerned at all about a tough lawyer making the decision. That was fine with me. I had no view on the question of who would be making the decision. My only interest was that somebody had mentioned this, which is a fact related to people who would be making the decision if Roger didn't. I personally had no concern about that, and as I said before, I believed that Mr. Altman should recuse himself from this matter.

Senator FAIRCLOTH. Bernard Nussbaum complained to Jean Hanson about the choice of Ellen Kulka, the person who will make the decision in the Madison matter. Nussbaum, twice, wanted to know how Kulka got hired without being cleared by him, even though the RTC is supposed to be an independent agency.

The White House wanted to take the Madison Guaranty civil cases away from Ellen Kulka, and instead, put the decision in the hands of Robert Fiske. Why would the White House want to replace a lawyer that they think is too tough with Robert Fiske? Were they thinking he'd be softer?

Mr. FOREMAN. I don't have any idea about that, Senator. I had no knowledge about that at the time, and I don't know what anyone may have been thinking who said that.

Senator FAIRCLOTH. But they wanted to replace Kulka with Fiske?

Mr. FOREMAN. Senator, I don't know that. I remember Ms. Hanson making a comment about looking at the scope of Mr. Fiske's responsibilities from the Justice Department, and someone making a comment that it included civil claims. That's all I remember about that. I have no idea what the White House wanted.

The CHAIRMAN. Let me just say, the time has expired. If you've got one follow-up, we're about to go and vote; then we're going to recess. If you can ask it quickly, we'll do it, and then recess.

Senator FAIRCLOTH. Did you talk with Robert Fiske before he made a decision not to prosecute anybody in this matter?

Mr. FOREMAN. No, sir.

Senator FAIRCLOTH. Thank you.

The CHAIRMAN. The Committee is going to recess briefly. We've got three votes in a row. The last two votes have shortened time periods. Once the voting has finished on the Senate floor, we'll come back and we'll stay here until approximately 1:15 p.m. That will give everybody guidance as to the length of this recess. We'll be back here, I would think, within about 30 minutes.

Senator DOMENICI. Mr. Chairman, do you not have a Democratic Caucus at lunch today?

The CHAIRMAN. I announced earlier, Senator Domenici, we're going to take a formal recess for the two caucuses from 1:15 p.m. to 2:15 p.m.

The Committee stands in recess for the voting period.

[Recess.]

The CHAIRMAN. The Committee will resume. Let me invite everyone to find a seat and we'll start momentarily. The next Senator to direct questions will be Senator Bryan from Nevada.

#### OPENING COMMENTS OF SENATOR RICHARD H. BRYAN

Senator BRYAN. Thank you very much, Mr. Chairman.

Mr. Steiner, I have a couple questions for you. The record of this proceeding will reflect, and your own testimony bears out, that you yourself thought it was the better course of action for Mr. Altman to recuse himself. My recollection of the record is that Mr. Stephanopoulos agreed. Ms. Kulka agreed. Ms. Hanson agreed. Mr. Nye agreed.

My question to you first is, are you aware of anyone other than Mr. Nussbaum who disagreed with the basic premise that it would be a prudent course of action for Mr. Altman to recuse himself?

Mr. STEINER. Well, Senator, let me say that at different points in time, different people had different views on the subject. I, myself, for example, didn't arrive at that conclusion until several conversations had taken place. I recall the other members of the Treasury staff also went through periods of internal deliberations about this issue. I recall that Mr. Levy, for example, at different times did not think recusal was the wisest course of action but I cannot tell you what his ultimate position was.

Senator BRYAN. But by the latter part of February, at the hearing on the oversight schedule for the 28th, which was really a very crucial time period, by that time you had a lot of information in terms of the various factors to be considered. Mr. Nussbaum, from what we have learned, was vehemently opposed to recusal. At that point in time, being the latter part of February, and prior to Mr. Altman's testimony, are you aware of anyone else within the Administration who opposed recusal?

Mr. STEINER. I don't recall, Senator, any conversations specifically about recusal prior to Mr. Altman's testimony. The last time I recall having a conversation with Mr. Altman about the subject of whether he should or should not recuse himself was a substantive contact conversation which was about February 16. In anticipation of the hearing, we had conversations about questions that he might anticipate, but I think, at that point, he decided he was not going to recuse himself.

Senator BRYAN. "At that point" being on the 16th of February, did you share with him, being Mr. Altman, your own view?

Mr. STEINER. Yes, I did.

Senator BRYAN. And that view was?

Mr. STEINER. That he should recuse himself.

Senator BRYAN. In your diary, you make reference to a tortured day. It's my understanding that tortured day was, your view, at least tortured in part, because of the anguish as to whether to recuse or not to recuse. Is that an accurate characterization?

Mr. STEINER. I think that was one of the factors that made it a difficult day, Senator. You may recall that after Mr. Altman's testimony, he was confronted with a number of news articles which commented on this matter and he had conversations with editorial writers who also commented on this matter. So there were a variety of factors at work.

Senator BRYAN. So we place your diary entry, the document that we have would indicate that your comments with respect to this part of your diary deal with the time period, February 13 through February 27, 1994. Now, that would be prior, would it not, to the oversight hearing?

Mr. STEINER. No. That would be through the oversight hearings, Senator.

Senator BRYAN. I believe the hearing was on the 24th.

Mr. STEINER. I believe that's correct, Senator.

Senator BRYAN. What were the considerations with respect to recusal? What was being discussed on this tortured day and by whom?

Mr. STEINER. I don't recall the specific conversations about recusal on that day. I do recall that, as I said, articles had appeared, and that we had for a long time considered the recusal issue within a political context, which is to say, were there going to be political appeals or requests for Mr. Altman to recuse himself and would there be allegations about the manner in which he was conducting himself? And, I think, we were eager to prevent any allegations of misconduct.

Senator BRYAN. Who was a party to the discussions on this tortured day?

Mr. STEINER. Senator, I don't recall any specific conversation. As you know, it was several months ago, and the events become compressed, but Mr. Altman was involved in discussions. I believe Mr. Levy was involved. I believe Mr. Schloss, one of our press people, was involved. I believe Ms. Hanson was involved. I believe Mr. Nye was involved, and there may have been others, Senator, but I just don't recall.

Senator BRYAN. Among those people that you recall being there, do you recall what their position was and what advice they gave Mr. Altman?

Mr. STEINER. I do not recall their advice at this time, no.

Senator BRYAN. Do you recall anybody at that meeting or at that time frame on this tortured day, as you've characterized it, that urged Mr. Altman not to recuse himself?

Mr. STEINER. I don't recall specific guidance that he received one way or another, Senator.

Senator BRYAN. Mr. Foreman, a question of you. You indicated earlier, with respect to that initial contact with Mr. Nussbaum, that you found that was, from an ethical point of view, proper. Is that in essence your testimony?

Mr. FOREMAN. Senator, in response to a hypothetical about that, that's what I said. There appears to be a legitimate purpose there.

Senator BRYAN. Are we talking about the meeting that was held on September 29?

Mr. FOREMAN. Senator, I answered a question about a hypothetical. That's all I can comment on. I don't know any of the details of those fall meetings. I'm sorry.

Senator BRYAN. Well, I think the record will reflect that after Ms. Hanson was notified on the 27th by Mr. Roelle, that there was a meeting with Mr. Nussbaum, as I recall, on September 29, at which time this was being discussed with Mr. Nussbaum. Assume for the sake of argument that is correct. You've indicated in response to a previous question that you found an ethical problem with information which had been imparted with respect to the referral being shared with Mr. Nussbaum.

Mr. FOREMAN. Senator, that's correct. I said there were no ethics violation there. I didn't speak to the appearance or judgment questions.

Senator BRYAN. You're referring to the ethical standard?

Mr. FOREMAN. Yes, sir.

Senator BRYAN. Would your answer be the same if you knew at the time that Ms. Hanson received the information, she was told by Mr. Roelle, that this was confidential? Would that alter your opinion?

Mr. FOREMAN. I certainly would need to pay attention to whatever the rules might be within the RTC, of which I was not aware at the time.

Senator BRYAN. Assume for the sake of argument, there was no prior knowledge that Mr. Nussbaum had of this referral that was being made, and the only source of that information came from Ms. Hanson and her conversation. Would it still be your view that would be an ethical contact for her to make?

Mr. FOREMAN. Senator, are you presenting that with knowledge of the RTC policy or not?

Senator BRYAN. I'm asking you. You are the individual who is the guardian, as I understand it, of ethical standards for the Department, and I'm just asking you your own view as to whether or not this would be ethical.

Mr. FOREMAN. I appreciate it, sir. I just need to know all the circumstances which I'm commenting about. As I understand it, and not very well from recent press reports and some parts of testimony, and also the OGE report, and the OGE had access to more information than I know now. OGE determined that it was a legitimate Government purpose for Ms. Hanson to tell Mr. Nussbaum that there were impending press leaks about these criminal referrals. I don't know the extent of the information that was passed at that time.

Senator BRYAN. My time is up. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Bennett.

# OPENING COMMENTS OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman.

Mr. Steiner, you have said here—is this on—are we back to that problem?

The CHAIRMAN. I don't know. Let's check and make sure the volume is up on the microphone, please. Talk good and loud into it.

Mr. STEINER. I can hear you, Senator.

Senator BENNETT. I'm not sure the television——

The CHAIRMAN. It's got to be heard by everybody in the room.

Senator BENNETT. I hope this isn't counting on my time.

The CHAIRMAN. No. We'll protect your time.

Senator BENNETT. Let me move down. Let the record show that's the auxiliary microphone that was put there yesterday to fix the one that didn't work before that one came about. Thank you.

Mr. Steiner, you've testified today, referring to Roger Altman, he wanted this case handled in identical fashion to all other cases. Is that a true statement?

Mr. STEINER. Yes, sir.

Senator BENNETT. I go to your diary, then, where you say, "for weeks we have been battling over how Roger Altman should handle the RTC investigation of Madison Guaranty S&L." Battling for weeks trying to decide how to handle it. It doesn't sound like a decision we're going to handle in identical fashion to all other cases. Can you reconcile the implications of those two statements?

Mr. STEINER. Senator, as I said, Mr. Altman repeatedly told Treasury staff and RTC staff that he wanted this case handled in an identical fashion, in a nonpartisan, nonpolitical manner.

Senator BENNETT. What was the battle about?

Mr. STEINER. My reference here, I suspect, was the question of whether Mr. Altman should publicly recuse himself.

Senator BENNETT. So in fact, your diary should have said we've been battling for weeks over whether he should recuse himself, not how the RTC should handle the case?

Mr. STEINER. I think, Senator, as I've said, the issue was a public recusal, and that was the issue I believe I was referring to in this instance.

Senator BENNETT. So there was a battle in the Treasury Department or the RTC over that issue that lasted for weeks?

Mr. STEINER. Senator, I think, if I might, there were deliberations about this issue, and there were discussions. I think the word "battle" is perhaps overly dramatic.

Senator BENNETT. It's your word. Let me go into your diary to a sentence that no one has read yet. All the other sentences I picked out somebody else on one side or the other has read, until now, but I find this one fascinating. The reference to the tortured day, again, on whether or not he could recuse himself. Then after Howell Raines, from The New York Times, called to say they were going to write a brutal editorial, Roger Altman decided to recuse himself. Harold and George, then called to say that Bill Clinton was furious. Is that a true statement?

Mr. STEINER. I'm glad you're asking. I think it deserves clarification. I never had a conversation with Mr. Ickes and Mr. Stephanopoulos concerning the President. And at no time did anyone say to me anything about the President's views on the subject. My un-

derstanding was in a conversation between Mr. Altman, Mr. Stephanopoulos, and Mr. Ickes, they relayed to him the fact that the President was unhappy about the manner in which Mr. Altman had recused himself.

Senator BENNETT. We can ask Mr. Altman, then, exactly what Harold and George said to him and whether or not the impression that you received, sufficient to put it in your diary on that day, was that the President was furious at his recusal.

Mr. STEINER. As I said, Senator, I had no direct conversation with anyone in the White House about this subject.

Senator BENNETT. We'll ask Mr. Altman that question.

Mr. DeVore, I too have been a flack. You made comment that the best thing to do was to be as open and honest as possible and that you really shouldn't say "no comment" because that sends the signal that you might have something to hide. I agree with that completely and have had arguments within organizations where I've served with lawyers who have said our public comment must be no comment and my comment is no, you do that, you create further circumstances. So I'm sympathetic with your other comment.

But this is a slightly different circumstance here. We are dealing with information, which is by legal definition, confidential. Indeed, the leaking of which violates regulations and presumably could lead to dismissal. I'm sure, listening to the Treasury officials we've had here, if they could find out who did leak this information from the RTC, that individual would be dismissed immediately. You're nodding, Mr. Foreman. Is that true?

Mr. FOREMAN. Well, I can't speak to an employee of the RTC, but I certainly think serious administrative action would be considered against such an individual, sure.

Senator BENNETT. We are dealing, then, with information that is extremely sensitive and has the legal title of confidential. I ask you in your professional advice as a flack, using the term we both know and love, wouldn't it have been wiser to say to the White House, yes, I have had a call from a reporter. I think that's a perfectly legitimate thing to say to the White House. The reporter calls you, involving the White House. I have no reason at all to complain about your calling the White House and saying we've had a call. It deals with extremely sensitive information, indeed, confidential information with legal implications around that confidentiality.

Your best stance is to distance yourself from it and say since it involves confidential information regarding the courts, the White House will not comment on it. Indeed, it would be inappropriate for the White House to comment on anything that potentially could go to the court. Isn't that a defensible position for a public relations man to advise his client to take?

Mr. DEVORE. It may be defensible, but it's certainly not the advice I would give a client.

Senator BENNETT. What advice would you give in this circumstance where there's confidential information that has this kind of legal thing? Forget what was done. Put your hat on and you're in a seminar now, Communications 101 at George Washington University, instructing people who want to go into your profession. What would you advise them to do?



Mr. DEVORE. Well, let me distinguish between the situation we were actually in and the theoretical situation you're setting up. As I understand it, there were—I'm not aware of any questions being asked of the White House at this point by reporters that required an answer from the White House.

Senator BENNETT. That's true. There were none. This was in anticipation.

Mr. DEVORE. That's right. But let's assume that it had moved to the next stage, the stage at which the reporters were going to the White House and asking for a comment. At that point, if I were flacking, I would urge whoever is responsible for press activities in the White House to call the RTC and get the correct information—the information, by the way, that really is not all that confidential since the reporter has it—to be sure the reporter's facts are correct so they can devise an answer that is as forthcoming as possible.

Senator BENNETT. I accept that as forthcoming as possible. But as my time is running down, I postulate to you this particular problem. We are dealing with legal information here that could conceivably lead to an indictment. What is the President, or the White House Communications Director, or you in your role at the Treasury going to do when the reporter says: "We understand that there is a confidential—there is a criminal referral that proposes the following things and misstates the circumstances?" Would you comment? We got that from Ms. Hanson yesterday. She said it might be misstated and they must have a complete briefing so they could handle it.

Do you then say oh, you've misstated what the confidential thing is, this is what's really going to happen in court? You can't do that.

When you're dealing with matters that are going to end up in court, your posture is, I have to say, no comment because this is a matter under the jurisdiction of the Justice Department, and it will end up in court. I have no problem with notifying the White House that a call came from the reporter and, therefore, the White House is alert to the fact that the reporter is trolling around. I have no problem with telling the White House what the reporter told you. There's nothing confidential there.

I do have a problem with a group of Treasury officials, not including the flack, going over to the White House, sitting down with the Counsel to the President and spending time in what appears to me to be a strategy session on the overall issue and not a heads-up on the question of "gee, we've got a reporter trolling out there and we need to be prepared for whatever he or she might say." I see that my time is up.

The CHAIRMAN. Let me say, Senator Bennett, as you finish, we are on the second bells of still another vote and we all must go now in order to make that vote. Senator Boxer will be next in the order and I've asked her to go ahead so she can come back and resume the hearing. We must all go now or we'll miss this vote.

The Committee stands in recess for about 10 minutes. I'd ask the witnesses not to go far from the room so we can resume promptly.

[Recess.]

The CHAIRMAN. The Committee will resume. Let me invite everyone to be seated. We have about 45 minutes before we must recess for the caucus luncheon meetings.

Senator Boxer.

# **OPENING COMMENTS OF SENATOR BARBARA BOXER**

Senator BOXER. Thank you very much, Mr. Chairman.

Mr. Steiner, I hope you're going to keep your idealism and your belief that serving Government is a noble thing to do. When I look at you and I—you remind me of two people that I have great respect for who are motivated, I believe, in the right way and care as you do, and that's my son and my daughter. One's a lawyer and the other one's in the movie business and we know there's a definite connection between the two of those.

What I guess I need to ask you is about your diary. My daughter kept a diary. Once we sat down and went through this diary and I remember stating well, you didn't explain it to me exactly this way and she said, "Mom, this is a diary." This is a diary. And as I go through your diary, I notice there are certain words there that are kind of exaggerations. They're words you wouldn't use, it seems to me, in ordinary conversation or in the course of keeping track of what occurred in your business life, words like "disaster unfold." It's very dramatic, "powerless," "intense pressure," "tortured day," "get rid of him," "brutal."

Now, these are words that one would use, it seems to me, in trying to recount feelings perhaps rather than exact interpretations of what went on. It's the way you felt when somebody said a certain event happened. Am I right in making that conclusion about your diary?

Mr. STEINER. I think you're largely correct, Senator. The purpose, as I said before, was to reflect back on recent events and to think about what lessons I might draw and what feelings I may or may not have had. It was also true that more dramatic language can be used as shorthand rather than describing the events in the exact detail in which they occurred. And despite the fact that I kept this for a long time, I did consider it somewhat of a chore at times and did not write as expansively as I might otherwise.

Senator BOXER. I also note that in your diary, there are some things that no one is picking up on here. For example, you make a reference to Senator D'Amato. You wrote "the GOP through D'Amato began a countdown to the 28th which was particularly ironic since he," meaning D'Amato, "had voted against extending the statute during the RTC reauthorization period." Now, when you wrote that, you didn't actually have information, did you, that the GOP had a meeting and asked Senator D'Amato to do this, did you?

Mr. STEINER. No, I did not, Senator.

Senator BOXER. So your statement that "GOP, through D'Amato," this was a conjecture on your part, is it not? It's something you thought might have happened?

Mr. STEINER. That's correct.

Senator BOXER. It wasn't meant to be accurate; is that correct, in terms of this diary?

Mr. STEINER. Well, as I said before, Senator, it was never my intention to provide a precise narrative.

Senator BOXER. I understand. I bring that out because I frankly think that too much is made of this diary. Now, as I understand

it, you're not really backing away from the things that you saw firsthand; is that correct? In other words, you're not backing away from things that you knew when you put them in the diary, things that people actually said to you, you're not backing away from the actual facts?

Mr. STEINER. I wouldn't say that I'm backing away from anything, Senator.

Senator BOXER. Now, when you wrote, "Roger Altman"—

The CHAIRMAN. Senator Boxer, would you just stop there. I don't know quite what that phrase means. Either the diary is basically accurate with its facts or it is not. There have been stories to the effect, that I've seen, that you say that the diary is not accurate and she's just asked you a question and you really didn't give a straight answer.

Mr. STEINER. Senator, I think I've been very careful, in fact, not to comment publicly on this matter at all in anticipation of appearing here before your Committee. This is the first public comment I have made on this subject. As I said in my opening statement, I think at times my testimony will clarify what I wrote. And I would say that, yes.

The CHAIRMAN. If you'll just permit me and I'll restore your time.

Senator BOXER. As long as I don't lose my time.

The CHAIRMAN. Senator Boxer just asked you the question as to whether the basic facts you relay here, the basic text of what you've said, allowing for some hyperbole and exaggeration, if that is accurate, and the answer should be either yes or no. Is it accurate, the basic text?

Mr. STEINER. Senator, as I said, if we went through it, I'd be happy to go through it on a point by point basis and talk about where there are differences and where additional clarity would be helpful.

The CHAIRMAN. I think what you're doing, if I may say respectfully, is what Roger Altman did here on February 24. You're not giving a direct, straight answer.

Senator BOXER. Mr. Chairman, I would like to take back my time. And that is not my conclusion at all and I respect your opinion but on my time, I would like the opportunity to say that I do not agree with you here. I think what we have here is a young person who kept a diary about his time in Washington, DC. Now, when he looks back on this time 20 years from now, he doesn't want to think it was all boring. Now, some of the words in here—

The CHAIRMAN. I want to restore your time, Senator Boxer.

Senator BOXER. Thank you. A lot of these phrases in here are quite dramatic. As I went through them before, "powerless," "fateful," "disaster unfold," "tortured date." You're using language here to indicate your feelings about it, and I respect the fact that you have a lot of feelings because you're not old like we are and you're not numb.

And I would repeat, as far as I understand, in your testimony, you're not backing away from the basic facts that you yourself knew firsthand.

Mr. STEINER. That's correct, Senator.

Senator BOXER. Am I correct?

Mr. STEINER. You are.

Senator BOXER. I thought I was correct on that point. I would like to ask a question to our ethics expert, Mr. Foreman. Would it not be better when a matter comes up that deals with the Presidency and it's very important, and none of us should be holier than thou and say it wouldn't matter to us if we work for the President, be it George Bush, or Ronald Reagan, or Bill Clinton, or anyone else that we wouldn't care about it. Wouldn't it have been better if you, as an ethics officer, had said, since this happened before the President was President, I think it's OK to make one contact, perhaps, to Mr. Nussbaum.

I'm not even sure that I think that's correct, but it should have gone straight from there to the President's private counsel, private attorney who would make the comments necessary.

Did you ever think about that, that since this was something that happened before the President was President, that all such questions would go not for "no comment" answers, as was indicated earlier because I agree with my colleague, Senator Sasser, and I agree with Mr. DeVore, when you say "no comment," that's the worst thing you can say to the press because they'll make a mountain out of a molehill if you say "no comment."

But if you refer it to a private attorney who can then say the fact that yes, this matter is proceeding in order, et cetera, and my client did nothing that he or she is ashamed of or whatever. Did you ever think about that notion, of taking this to a private counsel since it was really a private matter that occurred before the President was President?

Mr. FOREMAN. Senator, that's a very thoughtful option. As I said, I wasn't aware of the contacts when they occurred last fall.

Senator BOXER. But you would consider now, in light of this, that that might be some way to proceed where it is a matter that happened prior to the President becoming President, that it would be better perhaps, or you'll think about it as ethically sounder to refer all of these questions to private counsel?

Mr. FOREMAN. That's a very thoughtful option, as I've said, and it makes sense.

Senator BOXER. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Roth.

#### OPENING COMMENTS OF SENATOR WILLIAM V. ROTH, JR.

Senator ROTH. Mr. Foreman, as stated in the RTC's written response to Banking Committee questions for the February 24, 1994 hearing, and I quote:

It is the policy of RTC not to disclose criminal referrals or information about their preparation on an institution-specific basis.

Mr. Foreman, while you are the Designated Agency Ethics Officer of the Treasury Department and not of the RTC, are you aware of the RTC's policy regarding the confidentiality of criminal referrals.

Mr. FOREMAN. Senator, I saw that policy for the first time, to the best of my recollection, in March of this year.

Senator ROTH. So you were not aware of it on February 24?

Mr. FOREMAN. That's exactly correct, Senator.

Senator ROTH. Let me ask you this: As the Treasury's Ethics Officer, wouldn't it be proper procedure for any Treasury official to consult with you to obtain ethical clearance prior to providing confidential information to the White House even if that information comes from the RTC since the Treasury official would be disclosing confidential information?

Mr. FOREMAN. Senator, that's certainly something that could be done. There's no requirement that every time some activity happens, that someone checks with an ethics lawyer before they do it.

Senator ROTH. Wouldn't it be the appropriate procedure if it involves confidential information?

Mr. FOREMAN. It would have been a good idea, perhaps, to do so, but there's nothing that requires that it be done in every situation.

Senator ROTH. Now, in your deposition, you testified that no one from the Treasury Department consulted with you in advance of the September 29, 1993, meeting, at which Mr. Altman instructed Treasury General Counsel, Jean Hanson, to brief White House Counsel, Bernard Nussbaum, on the confidential RTC referrals regarding Madison Guaranty; is that correct?

Mr. FOREMAN. Yes, Senator, it is.

Senator ROTH. Now, Mr. Foreman, three Treasury Department officials, Ms. Hanson, Mr. Steiner, and Jack DeVore, attended the October 14, 1993, meeting at the White House, at which there was further discussion of confidential information regarding the RTC referrals regarding Madison Guaranty. Did any of these three officials or anyone else from the Treasury Department consult with you to seek out your ethics opinion prior to that meeting?

Mr. FOREMAN. To the best of my recollection, Senator Roth, they did not.

Senator ROTH. So despite the fact that the September 29 and October 14 meetings involved Treasury officials discussing confidential information regarding RTC criminal referrals with White House officials, you, Mr. Foreman, as the Agency Ethics Officer were not consulted in advance regarding the propriety of these meetings; is that correct?

Mr. FOREMAN. Senator, I'm sorry, I don't know the facts behind your first phrase, but as to the second phrase, I was not—that is, the despite, as you mentioned. I don't know the facts there. But certainly, as you say, I was not consulted.

Senator ROTH. Mr. Foreman, you also testified in your deposition that as Agency Ethics Officer, you were not consulted regarding the propriety of any telephone conversations or other contacts between Ms. Hanson and Mr. Altman and anybody in the White House prior to February 1, 1994.

Mr. FOREMAN. Yes, Senator, that's correct.

Senator ROTH. On February 2, Mr. Altman and Ms. Hanson met with White House officials, including those outside of the White House Counsel's Office, to further discuss the RTC criminal referrals regarding Madison. Mr. Altman has said that you met with Ms. Hanson prior to the meeting and provided your ethical clearance. Yet, in your deposition, you stated that neither the words "ethics" or "clearance" were ever used in your brief discussion with Ms. Hanson prior to the February 2 meeting; is that correct?

Mr. FOREMAN. Senator, I must have misunderstood. I thought you began your question with saying that they went to the White House to further discuss the criminal referrals. Not to my knowledge. I believe that February 2 meeting only related to procedures about the civil claims, if I may.

Senator ROTH. But let me ask, in your deposition, you did state that neither the words "ethics" or "clearance" were used in your brief—

Mr. FOREMAN. That's correct, Senator.

Senator ROTH. You also testified, in your deposition that, in fact, no formal ethical review was conducted prior to the February 2, 1994 meeting; is that correct?

Mr. FOREMAN. No formal ethical review in terms of research, analysis, and hours of thought, that's correct.

Senator ROTH. Now, you did have a meeting with Ms. Hanson about 90 minutes before Ms. Hanson and Roger Altman went to the February 2, White House meeting; is that correct?

Mr. FOREMAN. To the best of my recollection, Senator Roth, it was midafternoon. If that turns out to be 90 minutes, then that's correct.

Senator ROTH. Roughly that time.

Mr. FOREMAN. Yes, Senator.

Senator ROTH. As I understand it, this meeting lasted 2 or 3 minutes and neither the word "ethics" nor "clearance" was used?

Mr. FOREMAN. That's correct, Senator.

Senator ROTH. At the February 2, 1994, White House meeting, Mr. Altman apparently claimed that he had received a verbal opinion from Ethics Counsel that he did not legally have to recuse himself. Did you give such a verbal opinion?

Mr. FOREMAN. I don't recall doing so, Senator, no.

Senator ROTH. Or did you tell Ms. Hanson before that meeting that you thought Mr. Altman should recuse himself?

Mr. FOREMAN. Yes, Senator, I did.

Senator ROTH. Mr. Foreman, in your deposition, you were read the following quotation from Mr. Altman's, March 3, 1994, letter to the Banking Committee, and I quote:

Treasury General Counsel who had also attended the meeting has advised me that before the meeting, she sat down with this Department's Designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

You responded in your deposition that you would not have used those words; is that correct?

Mr. FOREMAN. That's correct.

Senator ROTH. Why is that?

Mr. FOREMAN. Well, I have described in my opening statement what occurred. If I may take 30 seconds to explain one comment. I am the Designated Ethics Official. I've worked with Ms. Hanson for over a year. When she comes to me for my advice, she doesn't have to lay out what considerations she wants to hear from me. She knows I'm the Senior Ethics Official. Obviously without her stating it aloud, one of the reasons she asked me to look at the talking points was to see if I had any ethical responses, and that's the question about nonpublic information, which is certainly an

ethics standards of conduct thing, was very much in my mind as I reviewed those talking points.

Senator ROTH. Mr. Chairman, I know my time is up but I do have some additional questions.

The CHAIRMAN. We'll come back around. That's true, I think, for almost every Senator.

Senator Campbell.

### OPENING COMMENTS OF SENATOR BEN NIGHTHORSE CAMPBELL

Senator CAMPBELL. Thank you, Mr. Chairman.

While we've been asking questions, I'm sitting here trying to remember what I did on February 1st, or the 2nd, or the 3rd, and I can't remember a thing of who I met with or who I talked to. And we've been going through 3 days now of "he said, but she said, but I said," and so much is being made out of the exact responses that I would hope that the inability to remember exactly what they were doing that long ago wouldn't be construed as intentional misconduct, certainly not criminal behavior. But often that's the way it's viewed, I guess.

I'm not particularly interested in Mr. Steiner's diary. I want to associate myself with many of the comments my friend Barbara Boxer made, except I do worry a little bit about people thinking we're old and numb, instead, they might think we're old and dumb after we get done with this. That diary was written, much of it on the spur of the moment, much with very dramatic and passionate responses that I would think a young person would write, and very sporadic, sometimes not making any entries for 6 weeks at a time.

I rarely write notes except to remind myself of things, but I know if I write things down and 6 weeks later I look at it I can't remember what the heck I was supposed to do with that note. So I don't put an awful lot of credibility in how important his diary is. One thing that does come through very strong to me with Mr. Steiner is that it's really a shame we put him through this kind of an inquisition because I think it really discourages young people from going into public service in the first place. While I was listening to him testify, I was wondering to myself how much he would rather be back at the New York Library than here and, I think, if I was in his place, I would probably consider that too. It's probably a little less traumatic.

The other thing is that it sends a message to young people coming in Government services, don't take notes. Don't keep any diaries because you don't know what the heck they're going to be used for or when they're going to be subpoenaed. I hope you won't give up on Government because of your bad experience here.

I just really had one on two questions for Mr. Foreman dealing with ethics because I don't know quite how it works, but as I understand it, you're the Senior Ethics Officer; is that correct, Mr. Foreman?

Mr. FOREMAN. Yes, that's correct for the Department.

Senator CAMPBELL. What is the relationship between Treasury and the RTC in their ethics—each agency has its own ethics officer and they comply with the Government Code of Ethics. Is there

some interaction, or some connection, or does RTC even have an ethics system in place?

Mr. FOREMAN. Senator, they do have a very fine ethics senior officer, and we worked together on a number of matters in 1993.

Senator CAMPBELL. You do have regular interaction with RTC?

Mr. FOREMAN. We did in 1993, at least, when Mr. Altman was the interim CEO.

Senator CAMPBELL. Under normal conditions, you're the one that would suggest to Treasury officials if they were going to do something, whether it would be considered within the boundaries of the ethical behavior standards of conduct or not.

Mr. FOREMAN. Myself or one of the senior ethics lawyers who works for me, sir.

Senator CAMPBELL. But RTC, they're advised by somebody else?

Mr. FOREMAN. Yes, sir, that's correct.

Senator CAMPBELL. When does something become public information? If you were giving advice on the use of some ethical standard dealing with public information, before it became public—Senator Bond mentioned this and I'm not sure I can phrase it the same way—but I understand that the ethical behavior stays the same, whether it's nonpublic or becomes public; is that correct?

Mr. FOREMAN. There may be different factors that you would look to see whether there's an ethical violation, sir, depending on whether it's public or nonpublic information. And there's a provision or several provisions in the standards of conduct that speak to those kinds of distinctions.

Senator CAMPBELL. So that you maybe give people different advice before and after it becomes public information.

Mr. FOREMAN. Yes, sir, that's very correct, possibly, depending on the circumstances.

Senator CAMPBELL. I think that's all I needed to know, Mr. Chairman. Thank you.

The CHAIRMAN. Senator Domenici.

#### OPENING COMMENTS OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Thank you very much, Mr. Chairman.

Josh Steiner, I want to tell you on the way over here, Senator Boxer had me in an elevator where I couldn't get out and she reminded me—she put her arms on my shoulders and she reminded me “you have a whole bunch of young children that are just like that guy.” She doesn't know how many, but there's a big bunch of them, and I really don't intend, in my questions, to be offensive. I think you're in a tremendously difficult position, but I just want to tell you what's bothering me and I don't know if you can help me, but I want to lay it before you.

First of all, I'm struggling mightily to try to find out really why this recusal issue was so important to the White House. You have not convinced me in your testimony. I really, as of this moment, don't understand why it was so important, except—except that it seems to me that clearly Whitewater is a whole bunch of facts, and it goes back a long time in history. And the statute of limitations has been increased one time so that it could be looked at again.

Frankly, Mr. Steiner, I am assuming that it was very, very important—you used the words “White House.” I will use the word



"President." I will use the words "his wife." I believe it was very, very important to them that this thing get over with in the best possible way, and I'm not saying that in any sense derogatorily. I mean, obviously, anybody in that White House, under those conditions would want that. But frankly, I believe that in the scheme of things, you, too, are very much aware that whether or not Roger Altman should recuse himself was a Presidential decision, not lawyer Nussbaum's decision.

In fact, I believe you told us under deposition, you were asked this question: "Was the recusal regarded as a specific matter in which the President in a personal capacity was involved or general policy question?" And on page 304 of your deposition, you said recusal was and I now quote:

Not regarded as a general policy question, but as a specific matter in which the President in his personal capacity was involved.

You made that statement and you stand by it, don't you?

Mr. STEINER. Senator, you've made a variety of points and I'd like to respond to them as best I can.

Senator DOMENICI. I'm going to run out of time and frankly, I want to follow my 5 or 6 points and I hope there will be time for you to explain. But you made that statement, did you not?

Mr. STEINER. I certainly did, Senator. Would you like me to explain what I meant? Senator, it might be helpful if I could just quickly—I was asked was this a policy question and in the context of that, was this a general policy matter relating to the Administration, or was this related to the President in his former capacity before he became President. I think I was responding to that point.

Senator DOMENICI. All right. Now, believe me, I think the President probably should have been involved in this. I think if I were the President and this situation existed, I would want Mr. Nussbaum and Mr. Ickes to brief me regularly on what was happening, and I don't think you ought to be ashamed about that. What I think happened is that all of you people in the White House decided that nobody ought to know that the President was genuinely interested in Whitewater and you got yourselves in a mess because of that. Why didn't somebody say that right up front—

Mr. STEINER. I want to make it clear, Senator. When I was responding to this question, I did not mean to suggest, nor do I now mean to suggest, that to my knowledge the President was in any way involved in the recusal decision. I only knew of three times where, to the best of my recollection, Treasury had direct conversations with the White House about recusal. The first was the February 2 meeting. The second was a meeting on February 16, or thereabouts, with Mr. Stephanopoulos and I, where he made it clear it was the wiser course of action. The third was on February 23 when Mr. Ickes made clear to me that he thought it was Mr. Altman's choice as to how he should proceed.

Senator DOMENICI. Frankly, I hope I'm making my point that, thus far, if all of those things that I've just alleged occurred, I wouldn't think there would be anything wrong. He ought to be interested in this whole situation. Again, I repeat, if I were there, I'd be interested.

Mr. STEINER. I just can't testify one way or another, Senator. I just know that in the context I had, I received very clear guidance

about people's opinion, and it was to the effect that it was Mr. Altman's decision to make.

Senator DOMENICI. Now, I'm going to go to a diary entry of yours and ask you about your frame of mind when you wrote this—I'm talking about diary II, that is January 24 through February 12—and here's the entry that I want to read to you.

In DC he spent long hours with Roger Altman going over how he should handle the RTC's investigation of Whitewater. The statute of limitations on Madison Guaranty was supposed to expired on 2/28. Should Roger Altman recuse himself or should he stay involved? The hurdle was so high [fraud] that it seemed unlikely the RTC would bring suit or seek a tolling agreement from Bill Clinton or Hillary Clinton but the chance existed. Roger Altman originally decided to recuse himself but under intense pressure from the White House, he said he would make the final determination based upon recommendation from Ellen Kulka and GC.

General Counsel? That's what Ellen Kulka is.

I'm trying to figure out what you had in mind when you were saying this. Let me tell you how I read it based upon what you've been telling everyone else. You were trying to figure out why the White House doesn't want Roger Altman to recuse himself and one of your musings is the statute of limitations expires on 2/28 and you're writing this with that in mind. And I think you're saying here that if anybody is worried about keeping him on until after the statute of limitations, it's kind of ridiculous because the hurdle was so high, it seemed unlikely that the RTC would bring a suit or seek a tolling agreement. Am I close to right?

Mr. STEINER. Senator, this passage compresses a number of issues into a short space, and I'm not sure I fully understand your question.

Senator DOMENICI. Let me ask you again. Why don't you directly tell us what were you alluding to when you made that statement about the RTC tolling the statute of limitations and the hurdle being so high. What's that about?

Mr. STEINER. As I understood it, in cases such as this one, there was no discussion of the specific case, the standard used as to whether the RTC should file suit was very high, which is to say that, as I understand it, I believe it was intentional fraud. It seemed implausible to me, knowing nothing about the case at hand but knowing the Clintons by reputation, that they would be in any way involved in any kind of intentional fraud or any other kind of inappropriate behavior.

Senator DOMENICI. So you're suggesting you can't quite understand what the problem is with reference to recusal? Is that what you're saying?

Mr. STEINER. No. As I've said before, I understood Mr. Nussbaum's arguments. I may not have agreed with them, but I understood them. The issue of recusal, the issues of the statute of limitations deadline, and the issue of filing suit were separate issues, Senator.

The CHAIRMAN. We'll have to come back to that because the time has expired and I did allow that question to be completed.

Senator Murray.

#### OPENING COMMENTS OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman.

Mr. DeVore, when did you first learn about the criminal referrals relating to Madison?

Mr. DEVORE. On October 11, a reporter called me and told me that the investigation—the RTC investigation was under way. The reporter said there were a couple of unusual things about the investigation. One, it was—instead of being sent directly from the Kansas City office of RTC to the prosecutor's office in Little Rock, it had been sent to Washington for review. The second thing he said was unusual was that the referral had not yet been made.

Senator MURRAY. So you learned everything from a reporter?

Mr. DEVORE. No. I can't recall who at the October 14 meeting told me that, in fact, while the reporter had called me on October 11, the criminal referral had been made on October 8, so someone, either at that meeting or shortly before that meeting told me that a criminal referral had been made on October 8.

Senator MURRAY. But you had not seen the criminal referrals?

Mr. DEVORE. I have not to this day seen the criminal referrals.

Senator MURRAY. But you learned about them from a reporter who called you. That's where you first heard about it?

Mr. DEVORE. About the investigation, yes.

Senator MURRAY. Is it your experience as a Press Secretary, that if a reporter calls from a major newspaper with information, that that information is public or about to become public?

Mr. DEVORE. It's my experience and my strong belief that by definition, once a reporter obtains information, it ceases being non-public. It ceases being confidential.

Senator MURRAY. Have you ever received nonpublic confidential information from the RTC?

Mr. DEVORE. No.

Senator MURRAY. Thank you.

Mr. Steiner, in your deposition, you told this Committee that you wrote impressionistically. Can you tell us what you meant by that?

Mr. STEINER. Well, often, Senator, I would write about meetings that I did not, in fact, attend based on conversations of one of the participants, as opposed to all of them or perhaps even third-hand from people who had not even attended the meetings.

Senator MURRAY. So you don't record your thoughts accurately, you just record your impressions of what you thought occurred?

Mr. STEINER. I made no effort not to be accurate, Senator, but I want to be clear, I was not attempting to be precise or construct an exact narrative.

Senator MURRAY. You had a conversation with George Stephanopoulos earlier in February about the recusal issue; is that correct?

Mr. STEINER. It was on or around February 16, Senator.

Senator MURRAY. Did he tell you that Roger Altman ought to go ahead and recuse himself? Did he think that was the proper course of action?

Mr. STEINER. He said that he thought it was Mr. Altman's decision to make, but that he thought it was wiser for Mr. Altman to recuse himself.

Senator MURRAY. He thought it was wiser for Mr. Altman to recuse himself. Was that what he told you?

Mr. STEINER. Those aren't the precise words that he used but that was the content of the message.

Senator MURRAY. You did not record that conversation in your diary?

Mr. STEINER. No, I did not.

Senator MURRAY. Do you know why you didn't?

Mr. STEINER. Well, this document doesn't capture every conversation that I had because it wasn't intended to be an exact chronology of events that occurred.

Senator MURRAY. Mr. Foreman, did you ever discuss the issue of Roger Altman's recusal with anyone at the White House?

Mr. FOREMAN. Yes, Senator. As I mentioned in my opening statement, I had 2 or 3 brief conversations with Beth Nolan, the Senior Ethics Officer in the White House Counsel's Office.

Senator MURRAY. With Beth Nolan. Is she respected in the ethics field?

Mr. FOREMAN. Very much.

Senator MURRAY. What exactly did you discuss with her?

Mr. FOREMAN. I informed her about the procedures relating to the framework of the civil claims involving Madison, that I had no personal knowledge of any of the substance of the civil claims, that I was only talking to her in terms of informing her that we were going to be doing a legal analysis on the recusal, that we had received a letter from Congressman Leach asking us to look at the recusal issue, and that we were going to start working with the Office of Government Ethics and the Resolution Trust Corporation ethics officers to consider that recusal issue.

Senator MURRAY. Did she offer an opinion as to whether or not he should recuse himself?

Mr. FOREMAN. No, she did not.

Senator MURRAY. Let me ask you this: What was your opinion? Should Mr. Altman have recused himself? You're an Ethics Officer.

Mr. FOREMAN. The first time that I heard the question to me, my first reaction was he should recuse himself before I did the legal analysis as to whether or not he needed to or had to by law.

Senator MURRAY. So were there ethical or legal reasons that he should recuse himself that you knew of?

Mr. FOREMAN. In the end, it became a discretionary judgment for him because there was no ethics regulatory requirement, as we decided with OGE, that he must recuse himself. Therefore, it becomes a matter of discretion, and my view was he should recuse himself.

Senator MURRAY. Well, I've heard some people suggest that there are those in the White House who were pressuring Roger Altman not to recuse himself because Altman might give Madison Guaranty some kind of special treatment. Have you ever seen or heard any evidence that would give that theory any credence?

Mr. FOREMAN. I've seen information recently as all of the hearings and things are going on. I can tell you in February, while we were working on the legal analysis, I knew of no such views.

Senator MURRAY. Thank you.

The CHAIRMAN. Thank you.

Let me say we have time, I think, just before our break to accommodate the two Senators that have not yet asked questions.

Senator DODD. What your plans would be then is to terminate with this plan or can those of us who have some different points come back to this panel?

The CHAIRMAN. Let me seek guidance from the Committee. How many Members have additional questions for any of the members of this panel? Senator Dodd and Senator Shelby. Anybody else on this side? I will have some additional questions. Senator D'Amato, Senator Faircloth, Senator Roth, Senator Hatch, and then there are some Members that aren't here at the moment.

So when we finish with Senator Hatch and Senator Sarbanes, we'll go into the recess until 2:15 p.m. We'll come back and resume at that time. We'll stay with this panel until every Senator that wishes to ask questions has had the chance to do so, proceeding in the same fashion, and then we'll dismiss this panel. And at that point, then, we'll go to Mr. Altman. So that will be our order.

Senator Hatch.

#### OPENING COMMENTS OF SENATOR ORRIN G. HATCH

Senator HATCH. Thanks, Mr. Chairman.

Mr. Steiner, after Roger returned from the February 2 meeting at the White House, he stopped by your office and told you that Bernard Nussbaum, the White House Counsel, did not agree with Mr. Altman's plans to recuse himself from the Madison Guaranty matter; is that right? I think you testified to that.

Mr. STEINER. He said that Mr. Nussbaum, I believe, had made strong arguments as to why recusal was not the best course of action.

Senator HATCH. Mr. Altman also told you Mr. Nussbaum believed that the Madison Guaranty matter would be handled more fairly if Mr. Altman remained involved; is that right?

Mr. STEINER. I believe he said to me that Mr. Nussbaum's belief was that the RTC had a reputation as being a partisan institution, and that he was eager to ensure that this investigation be carried out in a completely impartial, nonpartisan fashion.

Senator HATCH. You understood from Mr. Altman that Mr. Nussbaum thought that the RTC might well be too tough in the Madison Guaranty case if Mr. Altman were involved.

Mr. STEINER. I do not recall—

Senator HATCH. Were not involved. Excuse me.

Mr. STEINER. I do not recall Mr. Altman ever saying that to me, no.

Senator HATCH. Do you recall Mr. Altman stating that Mr. Nussbaum was particularly concerned that a new RTC General Counsel, Ellen Kulka, was tough and tenacious?

Mr. STEINER. I have no recollection of that, no.

Senator HATCH. Mr. Steiner, let me jump ahead to the week of February 14. You first learned sometime during this week that the RTC had hired Jay Stephens and his law firm Pillsbury, Madison & Sutro, as Outside Counsel in the Madison Guaranty case; right?

Mr. STEINER. That's correct, Senator.

Senator HATCH. And you learned this in a telephone call from the White House; is that right?

Mr. STEINER. From either Mr. Podesta or Mr. Stern, I believe.

Senator HATCH. From either Podesta or Todd Stern. John Podesta was the Assistant to the President at that time; right, and Todd Stern worked with Mr. Podesta?

Mr. STEINER. That's correct.

Senator HATCH. Now, you understood at the time that Mr. Podesta, was to use your terms, "the point of contact" at the White House for all Whitewater-related matters; right?

Mr. STEINER. That's correct.

Senator HATCH. Do you remember now, which one called you?

Mr. STEINER. No, I do not.

Senator HATCH. Either Mr. Podesta or Mr. Stern was very upset at the time that the RTC had hired Jay Stephens; is that right?

Mr. STEINER. I actually do not recall them speaking in particularly upset tones. I recall them asking me a question.

Senator HATCH. They were not happy with it.

Mr. STEINER. No, they were not.

Senator HATCH. And you were also shocked by the news, as I understand it.

Mr. STEINER. I was certainly surprised, Senator.

Senator HATCH. And either Podesta or Stern asked you to inquire how Jay Stephens had been hired?

Mr. STEINER. That's correct.

Senator HATCH. You agreed to do so?

Mr. STEINER. That's correct.

Senator HATCH. You determined from Jean Hanson or her assistant, Robin Gross, that Jay Stephens had been hired through ordinary RTC hiring procedures?

Mr. STEINER. That's correct.

Senator HATCH. You also learned that Ellen Kulka was responsible for the decision to hire Mr. Stephens?

Mr. STEINER. I do not recall learning that, no, Senator.

Senator HATCH. Let me focus on the events of February 25. Let me just first ask you to read aloud the portion of your diary beginning with the phrase "after Howell Raines" and ending with "incredibly stupid and improper." If you could read that for us.

Mr. STEINER.

After Howell Raines from The New York Times called to say they were going to write a brutal editorial, Mr. Altman decided to recuse himself.

Do you want me to read verbatim?

Senator HATCH. If you would, I'd appreciate it.

Mr. STEINER.

Harold and George then called to say that BC was furious. They also asked how Jay Stephens, the former USA, had been hired to be Outside Counsel on this case. Simply outrageous that RTC had hired him, but even more amazing when George then suggested to me that we need to find a way to get rid of him. Persuaded George that firing him would be incredibly stupid and improper.

Should I continue?

Senator HATCH. Yes.

Mr. STEINER.

The New York—the NYT wrote a very mean editorial which referred to the 'bone-headed conclave convened by RA.' Lessons: Do what you think is the right thing early [recuse]. Remember that everything might eventually be asked about under oath. Don't let the WH get involved in any way.

Senator HATCH. That's fine. Now, the passage you've read from your diary describes the events occurring on February 25; right?

Mr. STEINER. Yes, it does.

Senator HATCH. You attempted to summarize these events accurately when you wrote them in your diary?

Mr. STEINER. As I've said before, Senator, I think there are things here which not exactly reflect the chronology or the nuance of what occurred.

Senator HATCH. But as far as you were concerned, there's nothing in there that you would disavow at this point?

Mr. STEINER. Let me make it clear, for example, that neither Mr. Stephanopoulos nor Mr. Ickes ever told me that the President was unhappy. I never learned that directly from either of them. I can go on and find other examples of things—

Senator HATCH. But the rest of it you would say is accurate?

Mr. STEINER. No, if you want, I can go through it sentence by sentence and describe it for you.

Senator D'AMATO. Senator, can you yield for a moment. Where did you learn that from then? You didn't make that up?

Mr. STEINER. No.

Senator D'AMATO. Mr. Steiner, the Senator asked if that was a fair representation of your thoughts, and you're now saying that you just put in your diary that Bill Clinton, the President of the United States, was furious? I find it incredible for you to say that you just—it just found its way there. Where did you get that impression? You said neither Mr. Altman nor Mr. Stephanopoulos told you this? Then who did?

Mr. STEINER. Senator, I believe I said that neither Mr. Ickes nor Mr. Stephanopoulos told me that.

Senator D'AMATO. Then who did?

Mr. STEINER. Mr. Altman relayed to me a conversation that he had with Mr. Stephanopoulos and Mr. Ickes. During the course of that conversation, I believe he learned that the President was unhappy about the manner in which Mr. Altman had recused himself.

Senator D'AMATO. So Bill Clinton was furious that he had recused himself?

Senator HATCH. According to what you wrote there.

Mr. STEINER. As I said, Senator, I cannot recall the exact words that Mr. Altman used to describe that conversation.

Senator D'AMATO. This is the first time—it takes us a difficult time to get you to—these words are written down and then you kind of run away so—

Mr. STEINER. Senator, let me just say, I'm not running away from this. I wrote it and—

Senator D'AMATO. OK. That's what the Senator was asking you and I apologize. I yield to the Senator.

Senator HATCH. Could I have back the few minutes I lost there?

The CHAIRMAN. I can give you another minute back here and then we have to go to Senator Sarbanes.

Senator HATCH. All right. Let me just ask you, you wrote that diary entry on February 25; right?

Mr. STEINER. On the 27th, Senator.

Senator HATCH. Twenty-seventh, that's right. So that was two days after it actually happened on the 25th?

Mr. STEINER. That's correct.

Senator HATCH. So the events of the 25th were fixed and fresh in your mind at that time?

Mr. STEINER. Senator, I would say—

Senator HATCH. You only had 2 days intervening, is what I'm saying.

Mr. STEINER. That's correct.

Senator HATCH. In the first phone call, George Stephanopoulos spoke with you about attorney Jay Stephens; is that right?

Mr. STEINER. That's correct, Senator.

Senator HATCH. The phone call took place right after the White House learned that Roger Altman had decided to recuse himself from the Madison Guaranty matter; right?

Mr. STEINER. That is correct.

Senator HATCH. In fact, George Stephanopoulos raised two topics on the phone call. One related to Mr. Altman's decision to recuse, and the other related to the hiring of Jay Stephens; right?

Mr. STEINER. I cannot recall, Senator, whether I raised the recusal issue or whether he did, but I do recall he raised the issue of Mr. Stephens.

Senator HATCH. But Mr. Stephanopoulos made it very clear to you that he was very upset that the RTC hired Stephens. In fact, his voice was even raised according to your deposition; is that right?

Mr. STEINER. I think he felt that it was a conflict of interest in this instance.

Senator HATCH. He was upset and he raised his voice; right? That's what you said in your deposition.

Mr. STEINER. That's correct.

Senator HATCH. Mr. Stephanopoulos asked how Mr. Stephens had been hired; right?

Mr. STEINER. That is correct.

Senator HATCH. After you told him that the hiring had been through ordinary procedures, he then argued that Mr. Stephens should be disqualified for a conflict of interest; isn't that correct?

Mr. STEINER. I can't recall whether he argued that position—

Senator HATCH. That's what you said in your deposition.

Mr. STEINER. I think he made it a point that Mr. Stephens was probably facing a conflict of interest, given the public comments that he made about this Administration.

Senator HATCH. Actually, you understood that Mr. Stephanopoulos thought Mr. Stephens should be fired, didn't you?

Mr. STEINER. Mr. Stephanopoulos said he thought it was a conflict of interest and asked whether that conflict of interest should preclude him from serving in that capacity, and I said, to the best of my recollection, that even if it did preclude him, there was nothing we could do about it.

Senator HATCH. In your deposition, your answer was he first inquired as to how he had been hired and I relayed to him the same information I relayed to either Mr. Stern or Mr. Podesta. He said that he thought it was a terrible conflict of interest for Mr. Stephens to be working on the case given that Mr. Stephens had been a vocal critic of the Administration. He suggested that the conflict of interest should disqualify him from working on the case.

Mr. STEINER. I believe that's what I just said, yes.

Senator HATCH. Jean Hanson told us, both in her deposition and her hearing testimony, that you told her that people you had talked



to in the White House wanted to get rid of Jay Stephens. Do you disagree with Ms. Hanson on that characterization?

Mr. STEINER. I have no recollection of saying that to Ms. Hanson.

The CHAIRMAN. Senator Hatch, I don't want to interrupt you because I want you to be able to finish your line of questioning, but I do want to stay within the time period.

Senator HATCH. One last question. You don't deny saying that, do you?

Mr. STEINER. Senator, I have no recollection of either saying it or not saying it.

Senator HATCH. You don't deny or affirm on that matter?

Mr. STEINER. As I said, Senator, I have no recollection of either saying it or not saying it.

The CHAIRMAN. Senator Sarbanes.

### OPENING COMMENTS OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman.

Mr. Steiner, on this diary excerpt which Senator Hatch had you read, where you say "Harold and George then called to say that BC was furious." In fact, Harold and George's call was to Altman, not to you; is that correct?

Mr. STEINER. That's correct, Senator.

Senator SARBANES. You then wrote this comment on the basis of what you heard from Mr. Altman about that phone conversation with Ickes and Stephanopoulos; is that correct?

Mr. STEINER. That is, sir.

Senator SARBANES. Now, when you say that BC, the President, was furious, was the President furious that Altman had recused himself, or was the President furious because Altman had, in effect, announced through the paper that he was recusing himself without ever having, I take it, told anyone first within the Administration, including, I assume, the President or someone who would tell the President that he was going to be doing that.

Mr. STEINER. The President, as I understood it, was concerned about the manner in which Mr. Altman recused himself which is to say the fact that the information had been relayed first to a newspaper writer as opposed to people within the Administration. At no point, I might add, did Mr. Altman say that the President was furious. I cannot recall the exact words he used to describe his conversation with Mr. Stephanopoulos and Mr. Ickes.

Senator SARBANES. He did not say that? That's your editorial—your editorializing about it; is that correct?

Mr. STEINER. I cannot recall, Senator, the exact words Mr. Altman used to describe that conversation. I do not recall him—

Senator SARBANES. Did Altman tell Raines he was going to recuse himself because Raines told him he was going to write a brutal editorial about him; is that correct?

Mr. STEINER. Senator, I believe a member of our press staff had spoken with Mr. Raines prior to Mr. Altman speaking with Mr. Raines. Upon learning the information about this upcoming editorial, Mr. Altman considered that and, I believe, made a decision about recusal. I believe the first time the information was relayed was to Mr. Raines.

Senator SARBANES. Did he call Raines?

Mr. STEINER. I do not recall who called whom, Senator.

Senator SARBANES. Would you say that Altman was very sensitive to putting the spin on the press?

Mr. STEINER. I would say that he was interested in making sure that the press had a full understanding of events that occurred.

Senator SARBANES. He actually spent a great deal of time and thought at it, didn't he?

Mr. STEINER. I think he was forthcoming to the press.

Senator SARBANES. Are you still keeping your diary?

Mr. STEINER. No, I am not, sir.

[Laughter.]

Senator SARBANES. Do you know from any conversations with Mr. Altman or Ms. Hanson, whether she went to see Nussbaum in September as—because she had been tasked to do so by Mr. Altman?

Mr. STEINER. I have no knowledge on that subject.

Senator SARBANES. You've never heard Mr. Altman express any view about that?

Mr. STEINER. Well, I've read press accounts, Senator.

Senator SARBANES. I know there have been a lot of press accounts. I'm not asking whether, back in September, you heard anything. I'm asking now, recently, with all these press accounts. It's a lead item in a lot of stories, whether either Altman or Hanson, for that matter, has indicated to you anything about that difference in their testimony.

Mr. STEINER. We have tried to be very careful, Senator, about not discussing the substance of this matter in order to maintain the purity of our testimony. I certainly have read newspaper articles about this subject. I don't believe I've had any specific conversation with either Mr. Altman or Ms. Hanson.

Senator SARBANES. Strike the word "specific." Have you had any conversation?

Mr. STEINER. It's conceivable—I can't recall any conversations directly that—

Senator SARBANES. Strike the word "directly."

Mr. STEINER. I cannot recall any conversations where Mr. Altman said to me or Ms. Hanson said to me I have a directly different recollection.

Senator SARBANES. Strike the word "directly."

Mr. STEINER. Senator, I have heard conversations where Mr. Altman has commented that his recollection is different from Ms. Hanson's.

Senator SARBANES. You have heard such conversations.

Mr. STEINER. Yes.

Senator SARBANES. Now, that's a different answer than the path I seem to be taking, was led down when I was being told there was no specific conversation.

Mr. STEINER. Well, Senator—

Senator SARBANES. See, it's interesting because Mr. Altman did the same thing when he was before our Committee, and we have to parse your words very carefully here. Now, you do, as I understand it, recall conversations in which Mr. Altman expressed the view on this question; is that correct?

Mr. STEINER. I believe Mr. Altman has said that it is not surprising that our recollections differ and they do differ.

Senator SARBANES. Why isn't it surprising?

Mr. STEINER. We're speaking about events that took place many months ago, Senator.

Senator SARBANES. Do you think Ms. Hanson, of her own volition, would go to Nussbaum in the White House to give him this information?

Mr. STEINER. I think she might, yes.

Senator SARBANES. You do. She said yesterday that it was not conceivable to her that she would do this.

Mr. STEINER. I did not listen to her testimony, Senator.

Senator SARBANES. That's what she said. Do you disagree with that?

Mr. STEINER. She certainly has a better sense of her own responsibilities and course of action than I do.

Senator SARBANES. Would it be your evaluation that she might go do it on her own? What's your evaluation of that? You know her. You know Altman. You know how it works. You know the interaction between them.

Mr. STEINER. As I said, Senator, I think it's possible that she would do it under her own direction.

Senator SARBANES. Mr. Nye, what do you think about that?

Mr. NYE. My understanding of those events, and at the time I was not aware of them, was that she actually informed Bernie Nussbaum at the end of a meeting that they were having already on the subject of a Waco, Texas report involving the ATF—that's my understanding recently gained. To the extent that she would have, at the end of the meeting, pulled him aside and informed him of that does not seem incredulous to me.

Senator SARBANES. Do you think she did it because she had been directed to do so by Mr. Altman?

Mr. NYE. That I have no knowledge of.

Senator SARBANES. You've never heard any discussions by either Altman or Hanson on this point?

Mr. NYE. At what time?

Senator SARBANES. Any time.

Mr. NYE. In the very—

Senator SARBANES. I am asking questions in the most general fashion to elicit the most responsive and broadest answers. I want to establish that as a premise. And therefore, I don't want an answer that says, well, now, if specifically—and then you exclude it out. So I'm asking you at any time—

Mr. NYE. Right. And what I'd like to respond—

Senator SARBANES. —directly or indirectly.

Mr. NYE. What I'd like to respond to you and that's why I was asking your time frame, was that I have had one conversation with Roger Altman in response to a press article recently on the question of the difference of recollection. It was the Sue Schmidt article, I forget the date, but it was a Sunday article recently, the past couple weeks. In it—and his response to this was simply that it was an honest difference of recollection, and given the event happened approximately a year ago or so, I took that to be the case.

Senator DODD. Senator Sarbanes, though, asked—you know this person. You know Jean Hanson, don't you?

Mr. NYE. Yes, I do.

Senator DODD. Tell us about her demeanor. This is almost a demeanor question, a stylistic question. A lawyer with a major law firm, an independent person, obviously a successful individual. Did she strike you as the kind of person who on her own direction, her own volition would decide to go down and see the Chief Legal Counsel for the Presidency at the White House?

Mr. NYE. That's what I was just trying to explain. I believe—again, this is all recently. I wasn't aware of this at the time, but I believe that she attended a meeting on another subject all together, and then pulled him aside at the end—

Senator DODD. You're not being responsive to the question. I'm not trying to hold you to some rigid standard here. I'm asking you an opinion about somebody. We don't know her you do.

Mr. NYE. My response to the Senator was simply that I didn't think it was inconceivable.

Senator SARBANES. Mr. Chairman, I know my time is up. Could I just put a couple questions to Mr. Foreman?

Mr. Foreman, how long have you been the Deputy General Counsel for the Treasury?

Mr. FOREMAN. January 1991, Senator.

Senator SARBANES. And how long have you been the Chief Legal Officer there?

Mr. FOREMAN. I'm sorry. I've been the Chief Ethics Officer for the same period of time.

Senator SARBANES. I'm sorry.

Mr. FOREMAN. It comes with the position of Deputy General Counsel, comes the Designated Agency Ethics Official position as well.

Senator SARBANES. Did you—I'm not quite clear on your background. Did you come to this position working up through the civil service ranks, or was there a political dimension to your obtaining this position?

Mr. FOREMAN. Sir, I think both. I was a Career Senior Executive Service Lawyer in the Department of State. I resigned from that position in the summer of 1988 for a few months, worked as a volunteer in the Bush campaign, went back to a career position in the State Department and then was selected for the Deputy General Counsel person as a political noncareer appointee.

Senator SARBANES. I see. So you left your job in 1988 to go into George Bush's political campaign; is that correct?

Mr. FOREMAN. No money, as a volunteer, that's correct, sir.

Senator SARBANES. Then after the campaign, what happened?

Mr. FOREMAN. After the campaign, I got a call from the State Department Legal Advisor's Office where I had worked, and they asked me to return to a career attorney position, and I did so.

Senator SARBANES. And then what happened?

Mr. FOREMAN. Then I was selected for a Career Senior Executive service position as an assistant legal advisor a year or so later, and then in December, I guess, of 1990, I got a call from Ms. Hanson—Jeanne Archibald at the Treasury Department asking me to come

interview for the position of Deputy General Counsel which I did not even know or was aware was open.

Senator SARBANES. That was a political appointment?

Mr. FOREMAN. The position was a noncareer position, Senator.

Senator SARBANES. Noncareer.

Mr. FOREMAN. That's correct. So I went from a career senior executive position to a noncareer senior executive position.

Senator SARBANES. Then I take it your name had been floating around in the personnel office at the White House for that—

Mr. FOREMAN. It may have been, Senator, but my name was specifically suggested to Ms. Archibald by another former General Counsel of the Treasury Department; that she might be interested in interviewing me for the position.

Senator SARBANES. Then when the new Administration came in?

Mr. FOREMAN. When the new Administration came in, Mr. Altman met with me, asked me to stay on as Acting General Counsel until a new General Counsel had been confirmed.

Senator SARBANES. And then what happened?

Mr. FOREMAN. Then Ms. Hanson asked me to stay on.

Senator SARBANES. Thank you very much, Mr. Chairman.

The CHAIRMAN. The Committee will recess now, and we'll resume at approximately 2:15 p.m.

[Recess.]

The CHAIRMAN. The Committee will resume.

Mr. Steiner, I want to come back to the diary entries, and I do so not just to go over each and every word and haggle about exactly what you meant or what you would have meant a day or two or three later when you might have written something. I'm much more interested in the basic honesty and basic accuracy of what you've depicted here.

The reason I was so struck by it was that, in looking at all the other information we have, all the other depositions, all the other documents, your statements dovetail, they fit almost perfectly with everything else we've been able to gather. In other words, I would not have to rely on your diary entries to glean this picture because that picture emerges from all the other information we have.

Your diary entries come in on top of that and, in effect, essentially confirm, in still another way, the accuracy of events at that time. So when I talk to you about it, it's not an effort to try to discredit you in some way because, I think, what you've said accords with virtually everything else we have. I take your diary to be accurate and honest.

My sense is that now that it's there, that that's an awkward fact, and from what I've read in the way of general press accounts, I don't know what you've said to anybody or what anybody else has said to the press to try to, in a sense, characterize your notes. But the thrust of what's come out is that somehow or another, they're either not accurate or that they're fiction or that you're standing the truth on its head. I don't find that to be the case. I find your notes to be accurate and in accord with the other general information that we have. You should know that because you haven't heard all the deposition material yet. You'll hear some more of it.

So I find your diary entries important because they confirm what we learned from other sources about these very same things. Now,

with that as a predicate, I want to go to part of your diary entries here. I'm just going to read it, and I want to read it carefully, and then I want to have a general discussion about it. I don't want to get into endless hair-splitting here. I want to get to the general accuracy of what you're saying.

I'm going to give you the whole paragraph, rather several sentences of this paragraph:

Every now and again you watch a disaster unfold and seem powerless to stop it. For weeks now we have been battling over how Roger Altman should handle the RTC investigation of Madison Guaranty S&L. Initially, we all felt that he should recuse himself to prevent even the appearance of a conflict. At a fateful White House meeting with Nussbaum, Ickes, and Williams, however, the White House staff told Roger Altman that it was unacceptable. Roger Altman had gone to brief them on the impending statute of limitations deadline and also to tell them of his recusal decision. They reacted very negatively to the recusal. And Roger Altman backed down the next day and agreed to a de facto recusal where the RTC would handle this case like any other and Roger Altman would have no involvement.

Now, I must tell you that what I've just read to you, which is verbatim from your diary, cross-connects and validates the same information that we have from other sources. So I find this to be quite accurate.

My first question to you would be, nearly as you know, sitting here today, and testifying under oath as you are, as you did when you provided this to the deposition attorneys, is this an accurate account? Was this your best sense at the time of what constituted an accurate account of what was taking place?

Mr. STEINER. Senator, I believe if you would have asked me at the time to describe to you as precisely as I could the events that took place, I would not describe them exactly as I have here because, as I said before, my purpose in writing this was not to provide the most precise narrative I could. My purpose was to reflect back on events that had occurred.

The CHAIRMAN. But you see, in some sense, that makes this an even more valuable account. I realize we're caught up in all of these infinitesimal shadings and nuances of words and phrases and suppositions, but I think when you were writing this, you're the Chief of Staff at the Treasury Department. You're not some low-level functionary. You're one of the top people over there because you had the confidence, background, and so forth that have entitled the judgment that you've received to have that job. You're a key person. The fact that you're 28 years old might cause someone to think that maybe you were a lower level person. You're one of the highest ranking people in one of the major Cabinet agencies in Government. You're a key player. As a result, you carry a lot of responsibility.

So when you gave this account to yourself, you had no reason to shade the truth. You had no reason to exaggerate. You had no reason to go into this endless sort of shaving and parsing. I assume when you were talking to yourself, that you were being straightforward, honest, and candid.

Moreover, and I'm going to say it to you again, everything else I've been able to gather from other witnesses supports the accuracy of this account. So you don't need to back away from it for any reasons of accuracy unless you want to tell us today there's something in here that's inaccurate and I'm not talking about fly specking. I'm

talking, as Senator Sarbanes was earlier, the general accuracy and thrust of what you've said.

Now, you've said a lot of important things here, and you've said there was a major struggle over this recusal decision. Clearly, there was. There's absolutely no question that Roger Altman made a decision to recuse himself, went to the White House, indicated that's what he was going to do and he got a lot of negative feedback, very negative feedback and he then decided that he better not do that, at least not right then. Isn't that the truth?

Mr. STEINER. To the best of my recollection, Senator, Mr. Altman was planning to recuse himself or leaning toward recusing himself. When he went to the White House, as he's related to me because I was not at that meeting, Mr. Nussbaum, as I've said, made some powerful arguments about why that was not the wise course of action. That is the events as I—

The CHAIRMAN. He turned Mr. Altman around. Mr. Altman went in with one state of mind, prepared to say that he was going to recuse himself and that was not acceptable to the people he was talking to, and they, in effect, caused him to change his judgment. Isn't that what happened?

Mr. STEINER. When Mr. Altman returned from the meeting, he said to me that Mr. Nussbaum had made some strong arguments—and it was Mr. Nussbaum, I don't believe he said that others had taken positions on it—and he said he was going to sleep on it.

The CHAIRMAN. Then how long did he sleep on it before he made the final recusal decision? How many days?

Mr. STEINER. He decided the following day.

The CHAIRMAN. Was the following day the day of the conversation with the editor of The New York Times?

Mr. STEINER. I'm sorry, Senator, I may not have been clear. These events—this February 2 meeting—preceded by almost a month that conversation with the editorial write-up in The New York Times.

The CHAIRMAN. That's my point to you. So in other words, he went home to sleep on it and as I understand the record, he slept on it for 20 days.

Mr. STEINER. No, Senator. I believe what happened was that Mr. Altman returned from the February 2 meeting, said to me that he planned to sleep on it. The following day, he decided at that point, he was not going to recuse himself.

The CHAIRMAN. Not going to recuse himself.

Mr. STEINER. That is correct.

The CHAIRMAN. That's very important. So in other words, he changed his mind. On the 2nd, he was going to do it. He got all of this feedback, from Mr. Nussbaum certainly, to the contrary. He came back, said he would sleep on it, slept on it, and the next day he changed his mind. That's what you've now said.

Mr. STEINER. I think what I said, Senator, is that he was planning to recuse himself. He had gotten a variety of different pieces of advice from the members of the Treasury staff and he had now received additional advice from Mr. Nussbaum.

The CHAIRMAN. I'm going to stay within my time. I just want to clarify this last point. So then the next day, he changed his mind, decided that he would not recuse himself and then some 20 days—

well, Senator D'Amato refreshes me that the next day apparently he went back to the White House and said that he had decided not to recuse himself. So that signal was sent back over there, that he had a change of mind, and that was now his current thinking; is that correct?

Mr. STEINER. I was not aware at the time that he had a meeting, but I did become aware of the fact that he had decided at that time not to recuse himself.

The CHAIRMAN. And communicated that decision.

Mr. STEINER. I was not aware of the fact that he had communicated it.

The CHAIRMAN. We'll come back to that. The point I want to nail down is that he then changed that decision again, did he not? When did that happen? How many days later did that happen, the conversation with Mr. Raines that you refer to in your diary?

Mr. STEINER. Approximately 3 weeks later, Senator.

The CHAIRMAN. So about 20 days later, he's in a telephone conversation with the editor, one of the editors at The New York Times, and he decides afresh that he will recuse himself. That's your understanding of what happened?

Mr. STEINER. I don't know if he decided prior to his conversation or not. I do know that he said to Mr. Raines that he was planning to recuse himself or had recused himself.

The CHAIRMAN. Thank you.

Senator D'Amato.

Senator D'AMATO. Mr. Chairman, Senator Hatch had just a couple of minutes worth of questions so I'm going to yield to him.

The CHAIRMAN. Senator Hatch.

Senator HATCH. Thank you, Mr. Chairman and Senator D'Amato.

Mr. Steiner, let's go back to February 25—you understood from your February 25 telephone call that Mr. Stephanopoulos thought that Mr. Stephens should be fired; right?

Mr. STEINER. I understood from Mr. Stephanopoulos that he thought that Mr. Stephens' apparent conflict of interest should disqualify him from that position.

Senator HATCH. Well, the reason I raise it that way is Jean Hanson in her testimony said: "and I also recall a conversation with Mr. Steiner in which he said, 'do you believe those guys? They want to see if they can get rid of Jay Stephens.'" You remember that, don't you?

Mr. STEINER. No, I do not, Senator.

Senator HATCH. So you—could you have said that to Ms. Hanson, who testified to that?

Mr. STEINER. I don't recall saying that to Ms. Hanson.

Senator HATCH. But you could have said it.

Mr. STEINER. Senator, as I said, I don't recall.

Senator HATCH. You don't recall one way or the other.

Let me ask you this: In your own diary on the 27th, you say—this is after Howell Raines, you say "but even more amazing, when George then suggested to me that we needed"—right here—"but even more amazing, when George then suggested to me that we needed to find a way to get rid of him," you knew that Stephanopoulos had said we'd like to get rid of Mr. Stephens; right?

Mr. STEINER. I'm not sure I understand your question, Senator.



Senator HATCH. Did Stephanopoulos ever say to you, did you ever hear them say to you, or did you ever hear of them saying they wanted to get rid of Jay Stephens down there at the White House.

Mr. STEINER. I don't recall them saying that, no.

Senator HATCH. Even though you put in your diary "but even more amazing when George then suggested to me that we needed to find a way to get rid of him," you wrote that, didn't you.

Mr. STEINER. Senator, I've tried to give you as best I can my recollection of that conversation.

Senator HATCH. Did you write that?

Mr. STEINER. Yes, I did, Senator.

Senator HATCH. You're not disavowing that today, are you?

Mr. STEINER. Senator, I wrote that and I take responsibility for writing it. What I'm doing today is give you as best I can, my recollection of the conversation that took place, and as I've said before, my intention in keeping this diary was not to give you a precise narrative of the events that occurred. I often use shorthand.

Senator HATCH. But this was written 2 days after the event, and it was close in time, and this was what your recollection was then; correct?

Mr. STEINER. Senator, as I said——

Senator HATCH. Yes or no.

Mr. STEINER. Senator, as I said, my effort was not necessarily to put down my precise recollection of events that occurred. The purpose for which you keep a document matters.

Senator HATCH. That's not the point. My point is, is that true or isn't it?

Mr. STEINER. Senator——

Senator HATCH. Is your diary entry true or isn't it?

Mr. STEINER. I have tried to testify today as best I can my recollection of the conversation that took place.

Senator HATCH. All right. Also on February 25 you were in Mr. Altman's office when Harold Ickes and George Stephanopoulos were on the phone with him; right?

Mr. STEINER. That's correct, Senator.

Senator HATCH. You understood from hearing Mr. Altman's side of the conversation and from what Mr. Altman said to you afterwards that Mr. Stephanopoulos and Mr. Ickes were upset that the RTC had hired Jay Stephens; right?

Mr. STEINER. That's correct, Senator.

Senator HATCH. Now, it's true, isn't it, that you told Jean Hanson that you thought it was incredible and inappropriate that Ellen Kulka had hired Jay Stephens?

Mr. STEINER. I don't recall saying that to her, no.

Senator HATCH. Could you have said it?

Mr. STEINER. As I said, Senator, I don't recall saying it to her.

Senator HATCH. It's also true, isn't it, you asked Jean Hanson whether the RTC civil action could be given to the Whitewater Special Counsel, Robert Fiske, rather than be handled by Ellen Kulka or Jay Stephens.

Mr. STEINER. I don't recall saying it at that time, no, Senator.

Senator HATCH. Well, do you deny that you made that suggestion to Ms. Hanson?

Mr. STEINER. I recall a conversation, I cannot place it directly in time, but I do not believe it was then, Senator, where there was discussion as to whether the RTC should turn over the civil case to Mr. Fiske. I do not believe it took place on February 25.

Senator HATCH. Did you think it was incredible and inappropriate that Ellen Kulka had hired Jay Stephens?

Mr. STEINER. I thought it was surprising that the RTC had hired Mr. Stephens, yes.

Senator HATCH. You fully understood that the RTC retained the decisionmaking power even though they had hired Stephens? He couldn't do anything they didn't approve of. Did you understand that?

Mr. STEINER. I was not aware, Senator, of how investigations got carried out in any detail at the RTC.

Senator HATCH. Is it also true that you told Jean Hanson that you thought that Ellen Kulka should be fired for having hired Jay Stephens?

Mr. STEINER. I do not recall saying that to Ms. Hanson, no.

Senator HATCH. That's what Ms. Hanson says. She says here yesterday "in fact, Joshua Steiner, the Chief of Staff to Secretary of Treasury, Bentsen, had told you"—this is my question—"that he thought Ellen Kulka should be fired for hiring Stephens didn't he?" Ms. Hanson said: "Yes, he did." Do you recall that at all?

Mr. STEINER. No, I do not.

Senator HATCH. Who suggested to you the possibility of Mr. Fiske taking over the RTC civil action, Podesta, Stern, Stephanopoulos, Ickes, or Altman?

Mr. STEINER. I don't recall if anyone suggested it to me, Senator.

Senator HATCH. You're not a lawyer, are you, Mr. Steiner.

Mr. STEINER. No, I'm not.

Senator HATCH. Were you aware that according to the testimony from Lloyd Cutler, President Clinton was aware of Jay Stephens's hiring at this time and had expressed concerns to Harold Ickes about the hiring?

Mr. STEINER. No, I was not aware at the time, Senator.

Senator HATCH. Did Mr. Fiske or his staff ask you whether George Stephanopoulos had suggested to you that you needed to find a way to get rid of Jay Stephens?

Mr. STEINER. I was interviewed by Mr. Fiske's staff, and I testified before the Grand Jury, Senator. I recall that this topic came up. I cannot recall the precise questions that they asked me, and I also, not being a lawyer, would want to be careful to ensure that I protected the privacy of the Grand Jury.

Senator HATCH. Did Mr. Fiske or his staff ask you whether you told Jean Hanson that Ellen Kulka should be fired?

Mr. STEINER. I don't recall that question being asked, no, sir.

Senator HATCH. Did Mr. Fiske or his staff ask you whether you inquired of Ms. Hanson whether Mr. Fiske could take over RTC's investigation of Madison Guaranty?

Mr. STEINER. I do not recall being asked that question, no, sir.

Senator HATCH. Then Mr. Fiske may not have been as diligent in his investigation as he's indicated in the past.

Mr. Nye, yesterday Ms. Kulka testified about the status of the Madison/Whitewater case. Ms. Kulka told us that as of February

2: One, there were numerous witnesses that needed to be interviewed; two, there were many documents to be reviewed; three, there was much work that needed to be done in order to investigate the case prior to the 28th and that she so informed Mr. Altman, on February 1, the day before he went to the White House.

Did you also attend that meeting on February 1, where Ms. Kulka briefed Mr. Altman?

Mr. NYE. I believe I did, yes.

Senator HATCH. Mr. Nye, you testified under oath at your deposition as follows:

*Question:* What was—what do you mean when you say the situation that Ellen Kulka was facing?

*Answer:* That she was going to be forced to make a decision on how to proceed without perfect information on a politically charged or potentially politically charged case.

Right, you said that?

Mr. NYE. I believe so.

Senator HATCH. Let me read further.

*Question:* What did Ms. Kulka say about the imperfections of the information at that point?

*Answer:* Just that she wouldn't have enough time between—her feeling was that she wouldn't have enough time between them, the date of the meeting and the 28th, the statute of limitations expiration, to make as an informed decision as she would need to make. In her opinion, that wouldn't be enough time to sort of go through all of these mountains of documents and so forth or for her staff to do so and that ultimately she would have to be making a decision with the best information possible at that time.

*Question:* So the shortness of time and the inability to develop fully the facts of the case was identified as problems?

*Answer:* Yes.

Is that right?

Mr. NYE. Yes, I believe that's right.

Senator HATCH. You did testify truthfully at your deposition?

Mr. NYE. Yes, I did, and I think I also responded to that today. It's in both cases that she would have to make a decision or a recommendation.

Senator HATCH. Just one last question. Now, earlier during today's testimony, you testified that one of the points Ms. Kulka discussed with Mr. Altman was the tolling agreement. Is it true that one of the issues discussed was whether or not it would be necessary to present a tolling agreement to President Clinton and the First Lady?

Mr. NYE. I believe that was part of the discussion on the 1st of February. Certainly, the subject of a tolling agreement, and whether or not to present it to the President and First Lady, that I'm less certain of.

Senator HATCH. Mr. Chairman, could I ask one last question of Mr. Foreman? And I'll be through.

The CHAIRMAN. All right. If that will finish your line of questioning—

Senator HATCH. If I could, Mr. Foreman, you testified in your deposition on February 25, that you and Jean Hanson reviewed a videotape of Roger Altman's Banking Committee testimony on February 24; is that correct?

Mr. FOREMAN. Sir, I haven't had a chance to review my transcript. I just saw it today, but February 24 was the date of the hearing. It couldn't have been that—

Senator HATCH. Was it the day after, then?

Mr. FOREMAN. I do not know. I remember that I taped it in the middle of the night on C-Span. Whether it was Thursday night or the weekend, I can't tell you.

Senator HATCH. But you did review the videotape with Ms. Hanson?

Mr. FOREMAN. I reviewed a portion of the videotape with Ms. Hanson.

Senator HATCH. What portion was that?

Mr. FOREMAN. To the best of my recollection, there was a portion of Senator Bond's questioning that we looked at together.

Senator HATCH. Is it also the case that at various times during the day on February 25 or the day when you viewed this or immediately thereafter, you and Jean Hanson transcribed portions of Mr. Altman's testimony from the video itself?

Mr. FOREMAN. At some point, when we were watching Senator Bond's period of questioning, she wrote down a question and answer, or a couple of questions and answers about that, that is correct.

Senator HATCH. In other words, made her own transcript of what was said on the videotape?

Mr. FOREMAN. She was trying to do that, yes, I think, on those couple of questions.

Senator HATCH. Was that within a day or so after the hearing?

Mr. FOREMAN. Senator, I wish I could tell you exactly—

Senator HATCH. It doesn't have to be exactly.

Mr. FOREMAN. It was either Friday or Monday, it was within a couple of days. Friday or Monday, whenever—after I had taped it on C-Span.

Senator HATCH. In your deposition, you said it was the day after.

Mr. FOREMAN. If that's what I said, that was my best recollection at the time. I do not know when I recorded it on C-Span. My idea was that it was the day after we talked about it. It could have been Monday. I don't know for sure.

Senator HATCH. But you do recall sitting down with her and reviewing that portion of the transcript, Senator Bond's questions, and her making some notes as to the actual words?

Mr. FOREMAN. Almost, Senator. We didn't quite sit down. I remember that she looked at part of Senator Bond's questioning and wrote down one or two questions and answers about it. That's the best I can remember.

The CHAIRMAN. Thank you, Senator Hatch.

Senator HATCH. Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Shelby.

Senator SHELBY. Mr. Steiner, do you believe basically, as a basic belief, that when someone asks you a straight question that you ought to answer it, or anyone ought to answer it, with a straight answer?

Mr. STEINER. Yes, sir.

Senator SHELBY. A straight question deserves a straight answer, not misleading, not evasive, not something less than candid.

Mr. STEINER. That's correct.

Senator SHELBY. Would you say that's especially true when we were holding oversight hearings, not just today, but the hearings that Mr. Altman attended back in February.

Mr. STEINER. I think it's always true.

Senator SHELBY. Would you agree with that?

Mr. STEINER. Yes, I would.

Senator SHELBY. I want to go back again to your diary, and I'm going to quote from it. I'm on Deposition Exhibit 4. I'm sure you're familiar with it, and this is dated February 13, the dates to February 7, 1994, lines 7 forward we have here. And I'm quoting "initially," these are your words in your diary—"initially, we all felt that he should," he being Roger Altman, "he should recuse himself to prevent even the appearance of a conflict." You agreed with that statement that was in your diary? Do you disagree with those words that you put down in your diary?

Mr. STEINER. As I said before, Senator, I think if you got conflicting—

Senator SHELBY. I asked you a straight up question. Do you disagree or agree with those words? "Initially we all felt, we," you and some of the people around you—"felt that we should"—"that he, Roger Altman, should recuse himself to prevent even the appearance," the appearance "of a conflict."

Mr. STEINER. I would not say everyone in the Treasury felt that way, no, sir.

Senator SHELBY. Did you feel that way?

Mr. STEINER. Did I feel he should recuse himself?

Senator SHELBY. Yes.

Mr. STEINER. Yes, I did, Senator.

Senator SHELBY. And you go on to use this word "at a fateful"—fateful to Mr. Altman, or fateful to the White House, or fateful to whom—"at a fateful White House meeting with Nussbaum, Ickes, and Williams, however, the White House staff told Roger Altman that it was unacceptable," that his recusal, was unacceptable. Roger Altman had gone to brief them on the impending statute of limitations deadline, and also to tell them of his recusal decision. They reacted very negatively to the recusal, and Roger Altman backed down the next day and agreed to a de facto recusal, where the RTC would handle the case like any other and so forth.

Again, let's go over who was at the meeting today. They, who is "they," Mr. Ickes?

Mr. STEINER. Mr. Ickes was in attendance, yes, sir.

Senator SHELBY. Who else was there, Ms. Williams?

Mr. STEINER. Ms. Williams, yes.

Senator SHELBY. She works with Mrs. Clinton; is that right?

Mr. STEINER. That's correct.

Senator SHELBY. Who else was there?

Mr. STEINER. Mr. Nussbaum.

Senator SHELBY. Mr. Altman?

Mr. STEINER. Mr. Altman and Ms. Hanson.

Senator SHELBY. Is this the meeting we've heard about that took place in Mr. McLarty's office that was set up for that.

Mr. STEINER. That's correct.

Senator SHELBY. Mr. McLarty was not there during the meeting but the meeting was set in his offices; is that correct?

Mr. STEINER. I did not attend the meeting. It was my understanding that he was not present.

Senator SHELBY. What did you mean by the word "fateful"? At a fateful White House—what did you mean then? What do you mean now?

Mr. STEINER. Sure.

Senator SHELBY. First, what did you mean then when you put it down, that it was fateful?

Mr. STEINER. Senator, as I've said, I believe this was written on February 27, which was after press stories and editorials had come out about this meeting, and in hindsight nearly a month after the meeting took place, I considered it fateful.

Senator SHELBY. Now, I want to quote some more from your diary here on the same page. It goes down and it's not broken down into paragraphs, but you can find it. "Once again, they," they being the people at the White House; is that right, that you've just enumerated? "They were very concerned about him," meaning Roger Altman; is that right? "About him turning the RTC people they didn't know. So Roger Altman did not formally commit himself." "Once again, they were very concerned about him turning the RTC people." Are you talking about a political turning, turning them, trying to persuade them to a different course of action? How do you use the word "turning" that way? That's generally what it means, isn't it, when you turn a witness, you change them? When you turn someone you change them?

Mr. STEINER. That was not the—

Senator SHELBY. Isn't that the ordinary use of the term, though?

Mr. STEINER. That was not the context in which I was using the word.

Senator SHELBY. What context were you using it in?

Mr. STEINER. I was using it in the context of him stepping down as interim CEO, relinquishing his position as interim CEO.

Senator SHELBY. Let's go over that again. You didn't say any of that here as I read it. "Once again, they were very concerned about him," being Mr. Altman, "turning the RTC people, they didn't know." In other words, they weren't familiar with him, they didn't know him. "So Roger Altman did not formally commit himself." Why would they be upset about him possibly recusing himself? Why?

Mr. STEINER. Let me, if I might, Senator, give you the context of the circumstances surrounding this issue, which were as follows: I'm not an expert on this, but under the terms of the Vacancy Act, Mr. Altman's term as CEO was due to expire at the end of March. Unless the Administration had formally nominated a successor, Mr. Altman's tenure would expire. The question at hand was whether Mr. Altman should announce at the February 24 hearing that he planned definitely to step down at the end of his term or whether he should leave open the question in the event that the Administration had to formally nominate a successor.

Senator SHELBY. Let me ask you this: Could those words you use there in your diary, could they have been—could it be interpreted fairly that the White House people you were talking to there, or who knew that you were talking to him, did not want Altman to retain—to resign his job because they wanted him to retain it in

order to exert political control over an independent agency? That could be a fair reading of that, couldn't it, because his resignation, or his recusal, when they told him was unacceptable to him.

Mr. STEINER. Senator, I want to be very clear on this. If my words are interpreted that way, that's my fault because that certainly was not my intention. My intention was on the sole subject of him stepping down as interim CEO of the RTC.

Senator SHELBY. Now, one of the leading papers in the country, The Washington Post's writer, Howard Schneider, said today, I guess it was today, talking about your position, "now Steiner's lawyer is positioning him for a major league correction." You're not going through a major league correction on your diaries today or you're not trying to do that? I know you're trying to explain some of it away but you're not trying to do an about face before this Committee on those diaries?

Mr. STEINER. Senator, I'm trying to testify as accurately and completely as I possibly can, as I have done in four other instances of sworn testimony.

Senator SHELBY. But you basically stand by your diaries?

Mr. STEINER. Senator, I wrote them. I take——

Senator SHELBY. You didn't write them and put misleading information, or stories, or lies in them, did you?

Mr. STEINER. It would have been easier for me, I suspect better for this Committee had I——

Senator SHELBY. Did you——

Mr. STEINER. Might I finish?

Senator SHELBY. Go ahead.

Mr. STEINER. It would have been easier for me and I suspect better for this Committee had I chosen my words more precisely or more accurately but that was not my intention or my intention was not to use the diary in this kind of format. That was not the purpose for keeping it.

Senator SHELBY. We know it would be better for you, today, if we didn't have the diaries. But it's better for us and the American people that we have them because they gave us an inside contemporaneous view of what was going on over there, at least from your perspective and what you saw, what you observed, and what you were involved with.

Thank you.

The CHAIRMAN. Thank you, Senator Shelby.

I've asked Senator D'Amato if he would yield just briefly to me because I want to pursue one point that Senator Shelby made. I would appreciate it if you would turn to the first page of your diary entry, go about two-thirds of the way down, that second large paragraph, the sentence starts, "once again, they were very concerned." I'm going to ask you to read that sentence. Do you find that?

Mr. STEINER. Yes, I have.

The CHAIRMAN. OK. Now, I want you to look at it for a minute, and then I'd like you to read that sentence verbatim.

Mr. STEINER. "Once again, they were very concerned about him turning the RTC people they didn't know so RA did not formally commit himself to stepping down [he could stay on if we had formally nominated a successor]."

The CHAIRMAN. Now, is that sentence—is that the way you put it in there?

Mr. STEINER. Senator, I tried to transcribe this as exactly as I could. It would appear to me that a word is missing or at least, perhaps several words are missing. I suspect when I wrote it out by hand—I write this diary quickly and don't pay particular attention to my exact syntax and I don't go back to correct it.

The CHAIRMAN. Do you have the notes from which you typed it?

Mr. STEINER. I did not bring them with me, Senator.

The CHAIRMAN. But do you have them?

Mr. STEINER. My attorney does, yes, sir.

The CHAIRMAN. If you think that sentence is incorrectly transcribed, then I think we would need to see your notes on that sentence because I think what Senator Shelby has just pointed out is very important.

Mr. STEINER. Senator, I will happily provide that to the Committee. I tried to be as careful as I possibly could in transcribing it and as I said, it was possible in the original text which was handwritten, I left out words.

Senator SHELBY. Mr. Chairman, I wonder if he could go ahead and talk to his lawyer and get those notes this afternoon. They probably—might be here in the room.

The CHAIRMAN. Are the notes available so we can do this in the context of not having to call you back?

Mr. STEINER. I don't know, Senator.

The CHAIRMAN. Where are the notes?

Mr. WEINGARTEN. In my office, Senator.

Mr. STEINER. They're in my attorney's office.

Senator SHELBY. They're here. They're in the lawyer's office.

The CHAIRMAN. Where's the office?

Mr. WEINGARTEN. In Washington.

Mr. STEINER. It's here in town, sir, up by Dupont Circle.

Senator SHELBY. Mr. Chairman, he could probably get those notes while we're going through another round of questioning.

The CHAIRMAN. I think it would be useful to try to get the notes up here on this one sentence and let me tell you why, and then I'm going to yield back the time and I thank Senator D'Amato.

What Senator Shelby has pointed out here, if the literal transcription is correct, certainly could lend itself to the interpretation that he raised and that is, turning the RTC people they didn't know. I've heard that phraseology used before, and that suggests, in a sense, finding a way to deflect them from the decision path they might be on.

Mr. STEINER. Senator, I can understand why, based on the text that is before you, why you might interpret it that way. I cannot possibly be any clearer, however, that that was not my intention when I wrote this. I had a very clear issue in mind, which was the one I described earlier, concerning Mr. Altman's term under the Vacancy Act and that was my intention in writing this passage.

The CHAIRMAN. I'll finish with this. This becomes very important since it was earlier in the day that either Senator Shelby or Senator Kerry reviewed your own background. You've had an excellent academic background. You've earned a master's degree. You've worked in a library. You're obviously very good at words. This is



a skill you have. It is a developed, polished skill and so the issue of what you've said in its initial accuracy, especially because there have been these stories circulating that there's now an effort to try and take and in a sense, reinterpret or redefine the meaning, makes every word on this piece of paper highly relevant.

Mr. STEINER. I appreciate that, Senator. I might point out, that you'll notice, in fact, I describe the same set of events twice in this diary, and the reason is that I did not go back and review it. I did not go back over former passages and look at them again and check them for accuracy, check to see whether my language was precise, check to see whether my sentences were complete. As you'll see here, my syntax is not the same I might use in writing a memo or formal letter.

The CHAIRMAN. Of course, sometimes we get better information that way. I mean, you weren't concerned about nuances when you wrote this. You were, I assume, giving the most honest, direct—you were talking to yourself. There is absolutely no reason for you to not be absolutely candid with yourself. I assume you were.

Mr. STEINER. Nor was there a reason, however, Senator to be precise or be entirely accurate because my purpose was not to write a precise or accurate narrative. My purpose today under oath, as it has been under 4 previous sworn testimonies, was to be as precise and as accurate as I possibly can.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Sir, I just want to make note of something you just said and something the witness said as it relates to—you'll notice that I keep going back because I didn't check. You went back and as a diary would you continued to update it and this issue of recusal was big. Bernie Nussbaum got down, beating up your boss. Everybody told your boss "recuse yourself." You said it. You expected him to do it and he came back and he was pounded and changed his mind.

You look at your diary, you'll see that you even agonized, and I tell you something it is distressful to see a young, bright, intelligent man who wrote this diary and comes around and concocts some feeble, lamebrained excuses to try to explain it away like it didn't count and it didn't matter. You don't do yourself justice.

You have a memo I've given you that you prepared at the end of February, sometime in February—middle of February you've testified. It's dated March 4 because that's when it's printed out. And in it you are going through and you've describe an analysis of the advantages of a recusal and the disadvantages. And your last five advantages, and then there is one disadvantage, you have three.

Would you read that first disadvantage.

Mr. STEINER. "The White House may feel defenseless prior to the appointment of a new CEO."

Senator D'AMATO. "The White House may feel defenseless." I'd suggest to you that that dovetails exactly with what Senator Shelby has been talking about.

You stated that the first reason for Altman to stay on the case was so that the White House wouldn't feel defenseless. Was it your view that the White House wanted Altman to stay on as a defender of the President?

Mr. STEINER. No, it was not.

Senator D'AMATO. Isn't that what that indicates, that the White House would feel "defenseless?"

Mr. STEINER. Senator, I believe that refers to a comment made by Mr. Nussbaum to the effect——

Senator D'AMATO. That's a comment—that the White House would feel "defenseless." Think about that.

Mr. STEINER. Senator, if I might——

Senator D'AMATO. No, I don't want anymore. You're going into a filibuster.

Mr. STEINER. You've asked me a question, Senator, and I'd like to answer it.

Senator D'AMATO. I'll take your answer. I took it. In your discussion——

Mr. STEINER. Thank you. Senator, I wasn't complete—I'd like to complete it, if I might.

Senator D'AMATO. I only have 7 minutes and I'm going to control my 7 minutes.

Mr. STEINER. It makes it difficult to answer questions if I can't complete them.

Senator D'AMATO. Your instructions with Secretary Altman——

The CHAIRMAN. Let me—are you appealing to be able to respond to that particular point? If you're directing an appeal to me——

Senator D'AMATO. Mr. Chairman, I make that as an observation and not as a question, OK.

I'm going to state that given the manner in which you have continued to come up with answers that obfuscate the truth, then I don't even want you to respond to that.

Senator DODD. Mr. Chairman, I appreciate that. There's plenty of time here and I appreciate passions can run high, but this witness, as all witnesses in my view, deserve an opportunity to respond when a statement is made that they disagree with.

Senator D'AMATO. If you could attempt to respond in an expeditious manner, I'd appreciate it.

Mr. STEINER. Thank you, Senator. Mr. Altman, when he returned from the February 2 meeting, relayed to me the fact that, I have said to you before, that Mr. Nussbaum was concerned that in Mr. Altman's absence, the RTC, which had a reputation for being a partisan institution might carry out this investigation in a partisan fashion. This reference was to that conversation. At no time did Mr. Nussbaum say to me or, to the best of my knowledge, did he say to Mr. Altman that he wanted Mr. Altman to defend anyone.

Senator D'AMATO. OK. I note your words and they're your words, "the White House may feel defenseless prior to the appointment of a new CEO." That's in the record and I note that for the record.

Let me ask you one other question: In your discussions with Secretary Altman and Treasury officials, wasn't concern expressed about the awkwardness of filing suits against the Clintons?

Mr. STEINER. I believe it was, yes.

Senator D'AMATO. Now, let me go to this question of the diary, second page. You wrote this 2 days after the event took place:

Harold and George then called to say that BC was furious. They also asked how Jay Stephens, the former U.S. Attorney, had been hired to be Outside Counsel on the case. Simply outrageous that the RTC had hired him. But even more amazing, when George then suggested to me that we needed to find a way to get rid of him.

That's a very clear, precise message. It's not a message that he simply complained. "We needed to find a way to get rid of him." "Even more amazing," you say. Words have meaning, Mr. Steiner, don't come here now and say that was just an impression.

And let me suggest this, that that's backed up by the testimony that was given by Jean Hanson. Let me tell you what she says. She says about recalling a conversation with you, you said do you believe that they want to see if they can get rid of Jay Stephens, everyone agreed and understood that that was ridiculous.

Let me suggest that your diary comports exactly with the testimony of independent witnesses, over and over and over again and yet, you would have us believe now that your diary is inaccurate. That article that appeared in today's Washington Post, someone had some real insight into your restructuring of your testimony, unfortunately.

The CHAIRMAN. Senator Dodd.

Senator DODD. Thank you very much, Mr. Chairman.

We can go back to the diary, back and forth in different people's interpretations of what it means. That's the purpose in having this hearing. I view our role up here not as prosecutors and defense attorneys but as a Committee, required, under a resolution passed by the U.S. Senate, to try and determine whether or not there were any acts of impropriety or illegality in the relationship dealing with contacts and the unfortunate suicide of Mr. Foster.

So as I said last evening, there are a series of issues. A new one has been introduced, in a sense, that was not part of the Senate resolution that deals with the testimony of Mr. Altman before this Committee on February 24. That's an issue as it relates to the others, but has become more of a central question here as to the veracity. That's an issue we've addressed already and will address again with Mr. Altman this afternoon. I have grave concerns, I would say, Mr. Chairman, about that, as others in this Committee have expressed last evening and again today.

The second set of issues, in my view deals with the whole issue of how Mr. Altman got this job, the statutory authority that creates the kind of environment that brought us to this hearing. We have a vacancy and then ask someone to carry on two full-time jobs and to separate their functions in the middle of a case that comes to it, that affects the very institution for which they work. So you're inviting this kind of difficulty. That's the second set of issues.

The third set of issues has to do with the context. They go into whether or not anyone involved at the Treasury or the White House tried to influence these criminal referrals and disrupt a process that would otherwise lead to a successful prosecution of those who were identified. That to me is the most serious of all the questions we have raised. That's the heart and meat, it seems to me, of the issues we have before us.

Again, I'm listening to the debate about words and diaries and impressions and so forth, and they have some meaning, but I want us to get back to the central question here of whether or not anything was done that violated the Office of Government Ethics, anything improper done here. I would argue, to some extent, that the fact that there was a debate about recusal indicates a certain sensitivity to the issue that is not always evident in this town. Mr.

Altman or someone else may have just decided on their own that they were going to stay with the case no matter what anybody said. The fact that he was raising the issue and discussing it, and whether he should, ought not to be seen necessarily as an indictment of somebody. It can be construed as showing some degree of sensitivity.

I would point out, Mr. Foreman, that you mentioned at the opening of your testimony, that your first function that you were required to perform in the Department of the Treasury was a direction from Secretary Bentsen to instruct all the employees in that office as to what their obligations were under the Code of Ethics; is that not correct?

Mr. FOREMAN. Yes, Senator.

Senator DODD. That was on January 21, 1993?

Mr. FOREMAN. Absolutely, sir.

Senator DODD. That was the first day this Administration took office.

Mr. FOREMAN. The first hour of the morning, sir.

Senator DODD. I think that says something. It ought not to be just swept by. You're talking about an overall demeanor and attitude here about these issues. Now, again, in my view there were far too many meetings and there were far too many people involved and the language gets too cute for my taste quite frankly. But on the basic issue of whether or not there is a pattern here of unethical behavior or, in fact, illegal behavior, I'm waiting to see more evidence.

Mr. Foreman, let me raise a particular issue with you, because the allegation has been made that any contact having to do with a press inquiry, the threshold question to some Members of this Committee is wrong. Now, I'm referring here to page 8 of the Office of Government Ethics Report and specifically to paragraph 3. It says, "the question of whether Ms. Hanson," talking about Ms. Hanson in this case, "disclosure served an official interest raises a unique issue about the nature of the Office of the President, matters that would be of only personal significance for other Executive Branch offices may take on official significance when the President of the United States is involved."

I wonder if you might expand on that notion. Someone earlier raised the question of whether or not if this had happened in the Department of Commerce, whether or not the same standards would apply. As I read this provision, it says that historically, we have treated the Presidency different than just any other agency of Government. Because, historically, we've appropriated moneys to support a press operation to answer questions about the personal lives of the President and the First Family, when the Presidency is involved, there is a different standard than it would be for other agencies. Am I basically on track with that and would you expound on that a bit?

Mr. FOREMAN. Yes, Senator, I think you're very much on track with that. I thought that was a very interesting commentary from the Office of Government Ethics. It's hard to do any better job than what you've just said and what they said in the report. I would only comment that in my years as a Government lawyer, in various Executive Branch agencies, that I have talked with the White

House Counsel's Office on a number of previous situations involving criminal and civil allegations against the President, the Vice President, and others. I specifically refer to situations like Iran-Contra, to BNL, to BCCI, to POW/MIA, to October Surprise, all of which I have had some legal work on and in each case, we have worked in some manner with the White House Counsel's Office.

Senator DODD. In every one of those cases, there were contacts with the White House for a variety of different reasons because it was the unique institution of the President.

Mr. FOREMAN. Yes, sir.

Senator DODD. Let me tell you from my own point of view, and, each Senator and Member can express themselves on how this was managed. If you accept the threshold issue of whether or not the contact was correct, both legally and ethically, then when you get into the number of contacts, the number of meetings, that's where you begin to lose me a bit. I can understand a contact being made with Mr. Nussbaum, to give him the proverbial heads-up on the possibility of press inquiries. That to me would have satisfied the notification, and then if the White House wants to have its meetings about how to handle that, I accept that. Where the difficulty arises is that it appears there were a lot more contacts between the Treasury and the White House in handling that matter. Am I off base in that analysis?

Mr. FOREMAN. No, sir, I think that's correct, and it's hard to believe that anyone could argue with the idea that all of these things could have been handled more thoughtfully, looking in hindsight from here.

Senator DODD. So as a management practice, this was sort of a sloppy operation.

Mr. FOREMAN. I guess I'd have to agree with that. We should all be learning from this I think, for the future.

Senator DODD. But not unethical or illegal?

Mr. FOREMAN. Sir, it would appear that Mr. Fiske and the Office of Government Ethics have made their independent judgments that it's not illegal or unethical.

Senator DODD. Let me ask you because I've asked this of all of the witnesses and although my time has expired it's an important question. You've all been sworn witnesses here and so I'm going to ask each one of you to respond to this because it's critically important to the threshold or meat issue, as far as I'm concerned. Did any official at the White House or Treasury ask you to take or instruct you to take any action to obstruct or impede the Resolution Trust Corporation's handling of either the criminal or civil case against the Madison Guaranty?

Mr. Nye.

Mr. NYE. No, sir.

Senator DODD. Mr. DeVore.

Mr. DEVORE. No, sir.

Senator DODD. Mr. Foreman.

Mr. FOREMAN. No, sir.

Senator DODD. Mr. Steiner.

Mr. STEINER. I want to be very clear on this. I made it clear that Mr. Stephanopoulos asked me if Mr. Fiske's apparent—Mr. Ste-

phens' apparent conflict of interest should preclude him from working on this case. Beyond that, the answer to your question is no.

Senator DODD. Did you take any action?

Mr. STEINER. No, sir.

Senator DODD. The last question, did you take any action to obstruct or impede the Resolution Trust Corporation's handling of either the criminal or civil case against Madison Guaranty?

Mr. Nye.

Mr. NYE. No, sir.

Senator DODD. Mr. DeVore.

Mr. DEVORE. No, sir.

Senator DODD. Mr. Foreman.

Mr. FOREMAN. No, sir.

Senator DODD. Mr. Steiner.

Mr. STEINER. No, sir.

Senator DODD. Now, the last piece of advice I would have is, Mr. Steiner, I think you ought to spend an evening drinking a six-pack with Mr. DeVore. You could learn a lot in terms of how things ought to get handled in this town.

[Laughter.]

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Mr. Chairman, I know we want to get on to the next witness so let me just make a couple of observations.

First of all, I'd like to say of this whole debate about diaries versus testimony before this Committee, it seems to me, Mr. Steiner that your problem is that the power of your written word expressing your heartfelt feelings in a diary that the world was never to see is so powerful that it destroys your testimony today. Whoever, in all those years that your parents paid all that high tuition, taught you how to write, and reason, and think, and express, and use words like daggers created a situation where you cannot, with what you're trying to say to us and the message you're trying to convey here today, undo what you have written, because your diary speaks so much more clearly in pure terms that clearly you felt than anything you could ever say today.

This is vitally important, because here is a record written by a person who clearly was involved, who was doing more than listening, he was feeling. He cared about the people involved. He was involved in making great decisions at a relatively young age, and he reports it in his diary. It is powerful and it is, I think, the best evidence we have here. Nothing that could be said today could in any way undo that, and I think that's basically your problem. The people who taught you how to write all those years in all those great schools were simply better teachers than the people who taught you politics in Washington, DC.

Second, I'd like to say this, Mr. DeVore, because I had an opportunity to work with you in Congress for many years. You always worked for my colleague in the Senate and sometimes worked at cross-purposes with me, but I'm struck by the fact that if our President and if the Treasury Department surrounded itself with people like you, we wouldn't be here. Instead, we are here because of misdirected idealism and an ethic that anything goes, that all you've got to do is say there might be a press leak, and you can tell anybody anything. By that logic, the Justice Department could have

told John Dean that President Nixon was mentioned in criminal referrals, if it might possibly be leaked to the media. And it seems to me that once you start down this road of anything goes, you create a lot more problems than you solve.

One thing is very clear here, and I'll conclude—I don't need to ask a question. It is clear that this Administration, at least this little peephole we have into it, is driven totally by the media. Does it strike you that everything we have heard that has been done was driven by the fact that the media was asking a question, that something was going to be in the newspaper tomorrow, that there might be a media leak? It's as if—and again, we're only looking through one little peephole here, we have a chance to look at 2 or 3 percent of Whitewater, but I have to say having seen this much of it, I'm just stunned by the fact that every action we have heard about so far in these hearings was driven, not by any underlying principle, not by any political agenda, but at least the way you tell the story, it was driven by what was going to be in the media.

I think it is a very interesting observation about this little piece of the Administration that we see, and I suspect it is probably true throughout the whole Administration. I would yield the rest of my time to Senator Bond.

The CHAIRMAN. Senator Bond.

Senator BOND. Thank you, Mr. Chairman.

Let me ask Mr. Steiner sort of a procedural question. There was a story in the July 31 edition of The Washington Post, and we have more information on it from our House Banking colleagues, that approximately 20 interview transcripts from the Treasury Inspector General's report for the ethics investigation were turned over to White House Counsel, Mr. Cutler, approximately a week before they were issued. The list of those interview transcripts that we have in front of us shows the depositions from all four of you and of all of the people we heard from yesterday, with the exception of Mr. Ryan; from the RTC, Mr. Aboussie, Mr. Curtis, Mr. Katsanos, and Ms. Kulka. Now, are you familiar with the turning over of the transcripts to Mr. Cutler?

Mr. STEINER. Only through press accounts, Senator, and I have to admit I have not read those press accounts very carefully.

Senator BOND. Let me ask because the press accounts raised some real questions about the ethics. Who would have the authority to order that those transcripts be turned over? Was that done by the Secretary?

Mr. STEINER. I'm not familiar, Senator. I have not been involved in the investigation, for obvious reasons.

Senator BOND. Based on your other experience at the Treasury, is it standard operating procedure to share internal investigative reports either with the White House or with other agencies?

Mr. STEINER. I have not been involved in many Inspector General investigations. I would say two points, though. The first is that the Inspector General acts independently and that this Department respects the Inspector General's independence. I don't believe anyone would be in a position to order him to do anything. Second, it is my understanding that they do cooperate, as appropriate, with other ongoing investigations.

Senator BOND. Thus, if the Inspector General did not on his own turn it over, then somebody was actually directing how the investigation of the Inspector General was being carried out. Is that a fair conclusion?

Mr. STEINER. I'm not sure I understand your question, Senator.

Senator BOND. You say that you don't mess around with an Inspector General investigation. That's appropriate. Why don't you mess around with it?

Mr. STEINER. I want to maintain the Inspector General's independence.

Senator BOND. You want to maintain the Inspector General's independence. Then, if somebody told the Inspector General to turn over those depositions or those interviews to the White House, that would be compromising the Inspector General's independence, would it not?

Mr. STEINER. No, sir, I do not believe so. First of all, I don't believe anyone would tell the Inspector General to do anything. Second of all, if a request or suggestion was made, the Inspector General could, at his own volition, say it was inappropriate. I believe the issue would stop there.

Senator BOND. Mr. Foreman, you're the ethics guru. Is it appropriate to turn over interview documents to the White House to enable the White House Counsel to put together the story on the Whitewater? Does that meet the ethics smell test?

Mr. FOREMAN. Senator, I did not take any part in that decision. My understanding is the Inspector General made that decision.

Senator BOND. All by himself?

Mr. FOREMAN. I do not know—I do not know what consultations went on. What I understand is that—I should say the Deputy Inspector General who is—there's no confirmed Inspector General yet at the Department. But the Deputy Inspector General, my understanding, made that decision while under some arrangement with the White House Counsel, Mr. Cutler, for his limited investigatory purposes for the White House. That's all I know.

Senator BOND. And they didn't ask you by your leave, did they?

Mr. FOREMAN. Senator, I've tried to stay away from the kinds of questions the last few weeks that somehow might have some relationship to me as a witness.

Senator BOND. But the handling of an investigation by the Treasury and that kind of ongoing internal operation should be, granted the fact that your testimony was turned over, but isn't that the kind of procedure that comes within the purview of your office?

Mr. FOREMAN. I do not try to advise the Inspector General unless he asks me questions on ethics matter, sir.

Senator BOND. So what you're telling me, is that idea sprang out of the Inspector General's operation and did not come as a request or direction from an official in the Treasury Department?

Mr. FOREMAN. Sir, I don't know.

Senator BOND. Mr. Foreman, let me just ask you one last thing. Senator Hatch laid the groundwork about the viewing that you did with Ms. Hanson of the now infamous questions and answers. Did you review the questions that Ms. Hanson wrote down at the time? Did you see what she wrote down?



Mr. FOREMAN. I remember her writing on the desk. I may have seen the first few words. I don't remember—I don't remember reading the questions and answers, sir. I don't.

Senator BOND. What, if you recall, did she say as you watched that?

Mr. FOREMAN. I don't recall her saying anything other than very carefully trying to write down the questions and answers.

Senator BOND. What did you say?

Mr. FOREMAN. I don't remember saying anything. I remember watching the tape, sir.

Senator BOND. You sat there in silence and watched the tape. She wrote some things down and then you departed?

Mr. FOREMAN. To the best of my recollection, that's correct.

Senator BOND. You sat there and watched the tape, you the Ethics Officer, she the General Counsel, you watched that tape, which obviously had some real problems, has been the source of a lot of discussion, and you did not make any—

Mr. FOREMAN. Senator—

Senator BOND. —statements.

Mr. FOREMAN. I don't remember whose office the tape machine was in. I remember it was in the front office area. I remember walking into the office, seeing the tape on, seeing it having something to do with your questions and answers and that the questions and answers had something to do with the criminal referrals. I didn't know anything, at that time, about the criminal referrals and didn't learn about them until March.

Senator BOND. You walked out and had no discussion?

Mr. FOREMAN. I did not have any discussion with her, sir. That's all I remember.

Senator BOND. That's truly amazing. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bond.

Senator Kerry, you're next in the order here.

Senator KERRY. Let me just ask you, following up on that for a minute, whose tape was it? Who had this tape?

Mr. FOREMAN. Me.

Senator KERRY. Who arranged for it being played?

Mr. FOREMAN. I don't remember. I had an interest in the hearing but I didn't have enough time to watch the tape. I taped it over the weekend. I have a couple of VCR's, if it was the weekend, Thursday night, or the weekend. I brought it into the office. One of our secretaries probably got the VCR. I had it playing in the background of my office during the day, and I watched snatches and—

Senator KERRY. What was the purpose of it being played?

Mr. FOREMAN. I was interested, obviously—there were news stories about it, and I had some interest in it, but I didn't have the time or involvement to study it.

Senator KERRY. Who did?

Mr. FOREMAN. I don't know that anybody did. I remember—

Senator KERRY. Why was it being played? Was it that entertaining? Was it that much fun to watch?

Mr. FOREMAN. I had it playing in the background, sir, and I was listening to it in the background while I did my other work.

Senator KERRY. You put on a tape of a congressional hearing to listen in the background while you were doing your work?

[Laughter.]

That's probably a first in Washington.

Senator DODD. Are you sleeping on the job?

Senator KERRY. Are you an insomniac?

[Laughter.]

Mr. FOREMAN. Senator, I try to keep abreast of things that are in the news. I don't always have time to do the kind of thing I need to. I just thought if I had it going on in the background, I would hear part of it.

Senator KERRY. How did Ms. Hanson happen to come to the office? Does she customarily come into your office to view the tapes you're watching during the day?

Mr. FOREMAN. We are in each other's offices all the time. I don't remember at all how this conversation, or nonconversation I should say, sir, started. I remember at some point Ms. Hanson and I were in the same room and she was looking for a particular section of Senator Bond's question-and-answer session. She found apparently what she was interested in, wrote down some questions—

Senator KERRY. Did she know you had a tape of the entire hearing?

Mr. FOREMAN. Excuse me, Senator.

Senator KERRY. Did she know you had a tape of the entire hearing.

Mr. FOREMAN. I assume so.

Senator KERRY. Clearly, if she had been interested in dealing with prior portions of the testimony besides Senator Bond's questions she could have zapped the tape back to that portion also; correct?

Mr. FOREMAN. I guess that's correct, sure.

Senator KERRY. Then the notion that the testimony was unavailable to her, which she suggested to us yesterday, is not, in fact, accurate because she had a tape of the testimony.

Mr. FOREMAN. Well, sir, I think that's correct. There was a tape there. I don't know if you've ever tried to deal with a 4- or 5- or 6-hour session like today's session and try to deal with a lot of it on tape, I can't say.

Senator KERRY. This was 10 pages apart. It was page 55 and page 66, I think. That's not very much to zap back if you're interested.

Mr. FOREMAN. Senator, I don't know.

Senator KERRY. Let me ask you, Mr. Steiner, a couple questions if I could quickly. Did you view the—you mentioned about the graceful duck in your diary, and I wonder if you viewed the lack of completeness in the testimony, whether you characterized it as a graceful duck, as an omission, or whatever. You were aware that it was not a full, fair, and accurate answer because you knew the recusal issue was talked about but was not included; correct?

Mr. STEINER. Senator, I was not referring to the recusal issue. I was referring to the issue of White House-Treasury contacts.

Senator KERRY. Fair enough. You knew the contacts had been made but he hadn't mentioned them; correct?

Mr. STEINER. That's correct.

Senator KERRY. In addition, you also knew, with respect to Senator Bond's question, that recusal had certainly been discussed in the context of the meeting at the White House; correct?

Mr. STEINER. That's correct, Senator.

Senator KERRY. And in private.

Mr. STEINER. That's correct, Senator.

Senator KERRY. Did you personally view the lack of that completeness in his testimony, at least as to the contacts alone to be a problem?

Mr. STEINER. Yes, Senator.

Senator KERRY. Did you see the letter that he sent to the Committee, I think it was March 2, as his first correction?

Mr. STEINER. I believe I did, Senator.

Senator KERRY. Did you view the lack of his addressing the incompleteness, that you say you were aware of, as a problem at that point in time? In other words, when he wrote a letter to correct the record, you still, in viewing that letter, understood that it did not correct the record fully?

Mr. STEINER. I can't recall my reaction to the letter, Senator. I can tell you that I was reassured by the fact that Mr. Altman was trying to correct his record but I can't tell you exactly my reaction to the letter.

Senator KERRY. Well, I think in your deposition, you said that it was your understanding that the letter was intended to serve the purpose of clarifying Mr. Altman's memory. To the extent this was Mr. Altman's memory, it was appropriate to be sent, but it would be inappropriate for you or other people to introduce additional information unless it was specifically requested of you. Do you remember that?

Mr. STEINER. I believe that's what I was told by the attorneys at the time, yes, sir.

Senator KERRY. So it was attorneys. Other attorneys were part of that review?

Mr. STEINER. I believe Ms. Hanson was a part of that review, yes, sir.

Senator KERRY. Ms. Hanson suggested to you that it would have been inappropriate for you to correct this further even though you knew as Chief of Staff that it was not a complete correction to the Committee?

Mr. STEINER. Senator, I want to be clear on this. As I understand it, there were a series of letters that went forward and events do become compressed. At some point shortly thereafter, Mr. Altman also took on private counsel, I want to be clear that I can't recall whether it was private counsel who made that comment or Ms. Hanson.

Senator KERRY. Do you recall which letter it was? I'm talking about the first letter. I'm talking about the March 2 letter in which Mr. Altman first contacted the Committee to correct the record. You reviewed that letter?

Mr. STEINER. I believe I did, yes, sir.

Senator KERRY. And you knew that letter, at that time, did not accurately reflect your own memory with respect to what happened in terms of contacts?

Mr. STEINER. I believe Mr. Altman was correcting his comment about substantive meetings, and I believe, to the extent that was his correction, that was accurate.

Senator KERRY. Did you raise the issue with him? Did you say to him, Mr. Secretary, this is not a full correction?

Mr. STEINER. I believe I mentioned to him the fact that I had a meeting with Mr. Stephanopoulos on February 16 or thereabouts.

Senator KERRY. Well, if you're reading this letter "when Senator Bond asked me"—this March 2 letter—"when Senator Bond asked me, at that hearing, were there any other communications that had taken place between the RTC and the White House, my response was not to my knowledge."

I still have no knowledge that any such discussions occurred. I mean, that is a very strong denial of contacts which you were then aware of. Am I wrong in that or am I confused?

Mr. STEINER. Senator, I want to be as precise as I can. I can't recall exactly my comments on that letter.

Senator KERRY. Fair enough. Do you have a—my time is almost up. Do you have a sense—do you know what prompted Mr. Altman to amplify the record, not just on the 2nd, but again on the 3rd, and then again on the 11th, I think it is? Do you know what prompted that?

Mr. STEINER. I believe Mr. Altman wanted to be as forthcoming as he could be to this Committee and as he gathered additional information, he wanted to provide it to the Committee as quickly as possible.

Senator KERRY. Why would he not say then in his letter on the 2nd, I'm checking out further information or I'm trying to find out if this is fully accurate rather than just I want to correct the record, here it is, and it was blatantly incorrect in its correcting?

Mr. STEINER. Senator, I can tell you from my own experience, and I can't speak for Mr. Altman, in my own experience, as I've gone through this process for over 5 months now, one is told new facts in the process of being deposed or in the process of reviewing documents. And things which one had forgotten or maybe even didn't know about are brought to one's attention. And I suspect that's what happened to Mr. Altman as soon as they were brought to his attention, as soon as he was made aware of them, he let this Committee know as soon as possible.

Senator KERRY. I want to thank you. I also want to again say to you that I respect the judgments and the lessons that you drew from this, and simply wish, perhaps, that they might have been applied more generally in this process and I know you wish that too.

Mr. STEINER. I do indeed.

The CHAIRMAN. Senator D'Amato informs me they're near an end on this side with questions. Depending upon what our demands for time are, and Mr. Altman has arrived and will be ready to go when we're ready for him. We've finished on this side, so let me inquire—

Senator FAIRCLOTH. A quick question.

Senator D'AMATO. Senator Faircloth says two questions. Let me say that the Chairman and I are anxious because we're going to have at least 4 or 5 hours of questions for Mr. Altman, it is now quarter to 12, and we want to avoid a marathon. I'd urge Members

on our side, if we could, to hold it down so we could start as quickly as possible. So with that, I yield to Senator Faircloth.

The CHAIRMAN. Senator Faircloth, Senator Boxer, and I have one final question and, perhaps, we'll be done here.

Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman and I'll be brief and quick.

Mr. Steiner, I wanted to get one thing straight before we move on to the next hearing. In my earlier round of questioning, you asked what—I asked what you meant when you wrote about Roger Altman's gracefully ducking the Committee's question about the extent of White House contacts. You said that what you meant was he was asked a question he did not anticipate. I assume that gives you grounds for ducking. Then Senator D'Amato told you that was not right, that Roger Altman had been told the night before, in advance, what question to expect. Then I asked you a series of questions again, what you meant by ducking, and you said, "Senator, as I said before, I do not believe that Mr. Altman lied to this Committee or attempted to mislead this Committee. I believe he spoke truthfully and to the best of his knowledge," and you went on to say, and I quote, "Senator, as I have said before, I have no reason to believe, nor do I believe that Mr. Altman lied to the Committee." Finally, you said, "I think he was asked a question he didn't anticipate."

Now, this is about 1 minute after Senator D'Amato had just told you he talked to him the night before and said you're going to be asked this question so he did anticipate.

Senator D'Amato had just finished telling you, did you give the answer which you gave and was not accurate because you had practiced it before you came here today? Before you came with us today, you had practiced that answer so you couldn't reprogram yourself or did you just gracefully duck a question? Which was it?

Mr. STEINER. Senator, I have been asked about the matters on discussion four times under oath and have given a number of interviews in addition to that. So this is not the first time I've been asked about that diary entry. Each time that I've been asked about it, I have tried to provide people asking the question with my best recollection of the events that occurred.

Senator FAIRCLOTH. All right. Do you think we can see some more graceful ducking from Mr. Altman this evening?

Mr. STEINER. I think Mr. Altman will testify to the best of his ability.

Senator FAIRCLOTH. Thank you.

The CHAIRMAN. Senator Roth, you wanted the remainder of Senator Faircloth's time, I understand.

Senator ROTH. Yes, I have two questions, Mr. Foreman. The formal OK you gave to Ms. Hanson at the February 2, 1994, meeting, was based on the talking points she showed you; is that correct?

Mr. FOREMAN. Yes, Senator.

Senator ROTH. And if you were to learn that nonpublic information about the status of the Madison Guaranty case was discussed at this meeting, such as the fact that the RTC would be unlikely to complete the case before the statute of limitations expired, would that change your view?

Mr. FOREMAN. Senator, I think I would have had further questions about the purpose of the meeting and who would be attending and that kind of thing.

Senator ROTH. So there would be that possibility?

Mr. FOREMAN. That's a possibility, sir. Of course, I'm looking back in hindsight with all that we know, but that's my best—my best judgment on that.

Senator ROTH. If the meeting included White House pressure on Mr. Nussbaum to change Mr. Altman's recusal decision, would that change your view on the ethics of that meeting?

Mr. FOREMAN. Senator, that would not have much of an impact because the connection with the recusal has to do with the later action in time. The later action in time never, in fact, happened so this was an ethics discussion that I've heard much of today and over the last few months, about an action that was never taken. So I think it's open season for people to comment on the recusal.

Senator ROTH. Let me go forward. In a conversation on February 4, 1994, with Assistant White House Counsel and Deputy White House Ethics Officer, Beth Nolan, regarding Mr. Altman removing himself from decisions relating to Madison, isn't it true that you told Ms. Nolan that the two of you should not consider whether Mr. Altman should recuse himself because of the appearance of a conflict of interest under what is called the discretionary standard, but rather that you would only consider the formal or required disqualification standards?

Mr. FOREMAN. No, Senator, I don't think that's an accurate rendition of our discussion.

Senator ROTH. In other words, you did consider discretionary reasons as well?

Mr. FOREMAN. Sure. What we were talking about was that we were starting a legal analysis to determine first—I mean, the first cut is the legal analysis to see if there's a legal requirement to recuse. After that, if there's a legal requirement to recuse, you don't have to discuss discretion. But if the legal analysis led to a situation that it would be a discretionary call, then you look into the discretionary factors so it's sort of a two-stage process.

Senator ROTH. Finally, as you said earlier, we should learn from this experience. Let me ask you, would you agree or disagree that, as a general rule, it is advisable for a Federal employee to recuse himself or herself from an investigation involving the President if the individual is a personal friend of the President?

Mr. FOREMAN. Senator, I'm sorry, but I cannot, as a general rule, endorse that proposition. I think that it always remains to look at the circumstances of any given situation. I think that's generally a good idea for appearances. That was my first advice in this situation, in fact, that Mr. Altman recuse himself, but I'm a little concerned about general rules.

Senator ROTH. That was my question. You do think as a general impression that is desirable?

Mr. FOREMAN. Yes, Senator, as a general impression and maybe even a presumption, that may be something that people could look at in the future. I'm a little opposed to general rules that say never, because you're never sure what the circumstances might be.

Senator ROTH. Doesn't the word "general" imply that there can be exceptions?

Mr. FOREMAN. Yes, Senator, that's probably correct.

Senator ROTH. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman. I just wanted to make some closing comments. I trust I may not use up all my time but I feel compelled to respond to some of the comments of my friend from Texas, Senator Gramm.

He says, well, we've seen a look at this Administration through this prism of Whitewater. Those are my words, prism of Whitewater, and he says, what do you see and he goes on to paint an awful picture.

Well, I think it's important to note for the American people that this is one issue. The Clinton Administration has been dealing with tens, if not hundreds, of issues that really affect the American people. The crime bill, decreasing the deficit, an economic strategy, job creation, welfare reform, health reform, and many other issues. Making progress on many fronts, yes, maybe stumbling on some and coming back but stepping up to the plate on issues of real concern to the American people.

Now, I don't think it's a surprise that for most of these hearings, the chairs in this audience have gone empty. The American people are smart. Yes, they want us to do our job. I'm not saying they didn't want to have us look at this. I think we had to do that. But I think what's important here is not to make these sweeping statements about an Administration because of this one problem.

Obviously, there are political reasons why there are those people who don't want us to look at the fact that we are working on a crime bill, and health reform, and all the other things that we're doing, things that have been neglected for 12 years, and I understand that, but I would say this: We know, in this particular circumstance, that there were some very good people who were really concerned that a press leak could derail the Administration from its very important agenda. And because too many people, had too many conversations, and were involved in too many meetings and in my view, using press leaks as an excuse to hold even more meetings. They undermined their own purpose, which was not to get off course. So that's a problem and I think everybody can learn from that. All of us in our lives.

There was no criminality, no obstruction of justice, and no interference with the investigation. I think that's very important to the American people. We can learn from this, but let's not blow this up into proportions that it is not.

Senator Gramm longs for the day when a Republican will take back the White House. I can understand that from his perspective. But I would urge him, if he wants to put all this into perspective to read the Haldeman diaries which I'm in the middle of reading. If you want to really take a very good look at the White House, this was a diary that was kept for history, and it talked about how politics and enemies lists and other things ran a White House and ran it amuck, so there's something for us to learn in all of these things that occur. But they have to be put into perspective.

So in closing, let me say this to whoever cares, don't let press leaks or stories about press leaks run a White House, or a Senate office, or a Government office. We should do our jobs for the American people, that's what we're supposed to do, and don't worry about the press. It won't be good no matter what you do. Just come to grips with that from day one. Let private counsel handle matters that happened before the President became President. Keep it separate. That's what I'm learning from all this. And, I hope the Administration is learning that and I want to thank these witnesses. You have been, I think, candid with us.

This has been difficult especially for you, Mr. Steiner, because as I look at you, I see the exuberance of youth, the exaggeration of youth, and the loveliness of youth, along with some of the problems of youth. And I think you, of all people here on this panel, should talk to the guys with the gray beards and the gray hairs such as Senator Dodd. He's got gray hair. You can talk to him, too.

[Laughter.]

Senator BOXER. But, just because you're young doesn't mean your opinion isn't worth something, as Senator Kerry has stated. I think you showed us in this diary some of the feelings that are missing in public life today.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator D'Amato, anybody else on your side?

Senator D'AMATO. No, Mr. Chairman, but I do think, if I might respond to my friend and colleague, formerly a Brooklynite, now a Senator from California—

Senator BOXER. That's why I can keep up with you.

[Laughter.]

Senator D'AMATO. And you go beyond.

[Laughter.]

Senator BOXER. That's a compliment, coming from you.

Senator D'AMATO. I want you to know that I think, without even having checked with my colleagues, we could enter into a Unanimous Consent Agreement that we agree with your observation about the press. It doesn't matter what you do, it's not going to be good.

The CHAIRMAN. Anybody else seeking recognition or can we conclude this panel and go to the next witness? Seeing no requests for time, let me thank these witnesses for their appearance and we'll conclude your testimony at this time and excuse you.

We'll take a brief 3-minute recess here to allow Mr. Altman to come into the room and then we'll resume the Committee session.

[Recess.]



### **AFTERNOON SESSION**

The CHAIRMAN. The Committee will come back into session and our witness this afternoon will be Mr. Roger Altman.

Do you want to come on up to the table, Mr. Altman. Let me just say as you're being seated that I know you have a statement to make and all the Members of the Committee, I believe, now have a copy of that statement before them. Let us now, in the normal order of things, ask you to stand and raise your right hand.

Do you swear that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God.

**TESTIMONY OF ROGER ALTMAN, DEPUTY SECRETARY OF THE TREASURY, U.S. DEPARTMENT OF THE TREASURY; FORMER ACTING CHIEF EXECUTIVE OFFICER, RESOLUTION TRUST CORPORATION, WASHINGTON, DC**

Mr. ALTMAN. I do.

The CHAIRMAN. Very good.

You have a statement for us and we're going to make the full statement a part of the record. You deliver whatever part of it you want at the outset and then we'll go to questions.

Mr. ALTMAN. Good afternoon.

The CHAIRMAN. Incidentally, before you begin, let me just say that these mikes sometimes have been working strongly and sometimes not. I would encourage you to pull it as close to yourself as you can so you can be heard throughout the room. Thank you.

Mr. ALTMAN. Mr. Chairman and Members of the Committee, my name is Roger Altman.

Senator SHELBY. Mr. Chairman, can he pull the mike. Thank you.

Mr. ALTMAN. My name is Roger Altman. On January 21, 1993, I was unanimously confirmed by the Senate as Deputy Secretary of the Treasury and have served in that capacity since then. That was the second time I was unanimously confirmed to serve in the Treasury. Over the 4 years of the Carter Administration, I served as Assistant Secretary for Domestic Finance and had the privilege of working closely with this Committee at that time, especially on the Chrysler and on the New York City rescues.

I feel privileged to have served in these capacities. Public service has always been an important part of my life, as it was for my parents. Over those years, and in those positions, I may have made some poor decisions or other mistakes, but my integrity has never been questioned.

Now, Mr. Chairman, I read that I've already been convicted and sentenced even though the trial hasn't taken place. I hope and I believe today's process will be fairer than that. I intend to demonstrate convincingly that I conducted myself properly, and I testi-

fied accurately and when I finish today, I believe reasonable Members of this Committee will reach the same conclusion.

Let me address, first, the very basic issue as to whether any effort was made by the Treasury or White House staff to impede or alter in any way the criminal or civil processes of the RTC as they relate to Madison Guaranty. I include within that question the issue of whether any information was improperly imparted to the White House. To the best of my knowledge there was no effort on the part of any White House or Treasury staff to impede or affect in any way the RTC investigations. Moreover, no Member of the RTC or Treasury staff, to my knowledge, improperly imparted any information about Madison Guaranty to the White House. I did not do so myself and I am not aware of anyone else doing so.

Three independent investigations have addressed these questions. First, we had the results of the legal investigation by the Independent Counsel, Mr. Fiske. All issues involved in his investigation were fully and thoroughly investigated including a review of my testimony before this Committee. And we are all familiar with his conclusions. There was also the report of the Office of Government Ethics, which Secretary Bentsen released on Sunday. This concluded that there had been no unethical activities on the part of any Treasury personnel. The Office of Government Ethics is an independent body. As with Mr. Fiske, it had access to all documents and took testimony under oath from all those involved, including your witnesses. There is also the report of Mr. Cutler, White House Counsel, on the question of any unethical behavior by White House staff. He concluded there was none. These investigations have confirmed that the Clinton Administration did not interfere in any aspect of the Madison Guaranty case. There is no evidence, Mr. Chairman—I repeat—no evidence that either the criminal or civil aspects were compromised, delayed, or altered in any way. Simply none.

I believe that the conclusions of these three separate investigations are absolutely correct. And I ask the Committee to bear in mind the larger context of my involvement in the handling of the Madison matter by the RTC.

Most importantly, I never made any decisions of any kind with respect to the Madison case. I was committed, as I told the White House staff and others, to have the RTC General Counsel, Ellen Kulka, make whatever determination was necessary with respect to any civil claims arising from Madison. My meeting with the White House staff on February 2 was cleared by both Treasury General Counsel and the Designated Treasury Ethics Officer. I obtained two written ethics opinions stating that my recusal was not required; and I recused myself from the Madison matter on February 25 without ever having made any decision in that case.

Second, let me turn to what I believe is the most important issue between this Committee and me, namely my testimony before you on February 24.

Mr. Chairman, I do not have perfect recall, and I may have heard or understood questions in a way that was not intended by the Senator asking the question. And if I did so, I sincerely apologize to all Members of the Committee. But I do want to be clear. In no way did I intend to mislead or not to provide complete and

forthright answers. I have too much respect for this Committee, for our system of Government and for the need for full and forthright communications between the Executive and the Legislative Branches. Let me add here that I understand how a reasonable person reading my testimony and listening to all the testimony which has come before this Committee could believe I was not as forthcoming as I should have been. The burden is mine to explain that I was doing the best I could at the time and I intend to do that today.

Let me turn to describing the interaction between the Clinton Administration and the RTC. First, when Mr. Casey resigned as CEO in March 1993, the Administration had only taken office 5 or 6 weeks beforehand and had not yet chosen its nominee for this position. Indeed, only two U.S. Treasury officials had even been confirmed, Secretary Bentsen and me.

Secretary Bentsen asked me to assume this position until a permanent CEO was nominated and confirmed. As others will attest, I neither sought nor wanted this assignment, but I accepted it because there was no one else. And during the discussions about my appointment, there was never any mention by anyone of Madison Guaranty.

In June of last year we submitted a nomination for permanent Chairperson of the RTC. Our expectation was that he would be promptly confirmed, and I could leave the agency. Our nominee was a Republican, and an active one. He was well qualified for this position and the Administration supported his nomination throughout the congressional session, but the nomination was not taken up by the Senate. After Congress completed its work last fall, he withdrew his name from further consideration.

Let me make an observation, if I may, about this situation. The Administration nominated an active Republican for the top RTC job. That is not consistent with trying to exert undue control over the agency or any of its investigations.

When I became RTC Chairman, the agency was managed on a day-to-day basis by its two senior vice presidents, Bill Roelle and Lamar Kelly. Almost all members of the RTC staff reported to one or the other. These two men were appointees of Mr. Casey, who in turn had been appointed by President Bush. They were thoroughly professional and they were retained throughout all of 1993. Each then left at his own initiative to rejoin the FDIC. Retaining the two senior vice presidents whom we inherited is also not consistent with trying to exert political control over the agency. Moreover, these two individuals had no motivation to show favoritism on Madison Guaranty, and I do not believe that they did so.

During my tenure at the RTC, I was also serving as Deputy Secretary of the Treasury. In that role, I was deeply involved in policy initiatives ranging from passage of the President's economic plan to cochairing the U.S.-Japan framework negotiations. These responsibilities permitted me limited time for RTC matters. My involvement there typically related to broad public issues, like the long struggle last year to pass the RTC Completion Act. At no time, Mr. Chairman, did I ever ask to be briefed, nor was I briefed, on any investigation or the status or the outlook for any case, not once. My role was to provide general oversight at twice weekly RTC

senior staff meetings. These involved 8 to 10 RTC officials, and they were the only RTC employees with whom I ever had any personal contact of any kind.

Last fall, Bill Roelle or Jean Hanson or both, advised me because of impending publicity, that the RTC was considering referring the Madison matter to the Justice Department for criminal investigation, and that the referral could mention the President and First Lady in some capacity. I had never asked to be involved in Madison-related matters or any other RTC investigation. Indeed, until that time, I had known nothing at all about Madison except through the press. And, as I said, I believe they advised me because publicity was imminent.

I was also advised that such referral decisions are typically made at the regional office level. I responded by saying that this referral decision should be made in exactly the same fashion as in any other case. If that meant the regional office level, then that's where the decision should be made.

There were no further conversations with me on that subject. I ultimately learned through the press that the case indeed had been referred to the Justice Department.

I do not believe I suggested that the White House be informed of any facts relating to this referral, but if Ms. Hanson did advise the White House of an impending press leak on it, I see nothing improper in that. Nor did the Office of Government Ethics. Mr. Roelle has testified that he advised me of a possible criminal referral as early as March 1993. I respect him, but I do not recall it.

There have also been questions on press articles on Madison which I may have faxed to Mr. Nussbaum. He has said that he has no recollection of receiving them. I don't recall sending them either, but there would be nothing wrong with sending press articles to anyone. And there isn't a shred of evidence that I conveyed sensitive information, then or at any other time, to the White House.

During our meeting at the White House on February 2, we conveyed no information on the facts, merits, or outlook for the case, or the statute of limitations decision. That would have been impossible—that would have been impossible, because I had no information on those matters. I never had such information on Madison or any other case and I do not have it today.

The only information we provided which related to the case involved a description of the generic and procedural alternatives which face the RTC in any expiring statute of limitations situation, and indeed faced it in Madison. All of that information was in the public domain. It had previously been provided to representatives of the Congress upon request. And it was in the hands of the media. The Washington Times, for example, had already printed a summary of these procedural alternatives.

During the months of December and January, there were, at least, 7 meetings or conversations between RTC officials and House and Senate staff, all requested by the latter. Three of these involved Senator D'Amato's staff. All of these centered around the statute of limitations issues and the supplying to Congress of documents related to Madison.

Moreover, from December 1993 through February 1994, a series of congressional inquiries regarding the pursuit of civil claims aris-

ing from the Madison failure came directly to me. They included a letter on January 11 from 41 Republican Senators and a letter on January 25 from Senator D'Amato and a letter from Congressman Leach. These urged the RTC to, in Senator D'Amato's words:

Take action to voluntarily seek agreements from potential parties to pre-initiated legal action. I can see no reason for further delay on your part. Please provide me with your conclusion immediately.

The congressional inquiries directed to me, of course, required a response. Prior to receiving them, I was not familiar with the statute of limitations issues. I am not a lawyer and, for example, had never previously heard of a tolling agreement.

To assist in preparing responses to these congressional inquiries, Ellen Kulka, the RTC General Counsel, briefed me on these issues. I learned that the RTC had to make a decision by February 28. The alternatives were: No. 1, seeking a tolling agreement with the parties against whom a claim might be brought. No. 2, failing that, filing a claim in court. Or No. 3, concluding that no basis existed for pursuing a claim. This information together with the facts relating to the criminal referral was the sum total of information relating to Madison which was known to me.

My responses to Members of Congress were very direct. We pledged an impartial process, a thorough review, and "if such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases which could include seeking agreements to toll the statute of limitations."

With the volume of congressional and press inquiries rising, it seemed to me that, first, the White House should have the same information which was being provided to congressional staff and the press; and second, that it was appropriate to advise the White House of events which could affect its function. Those were my only motivations.

On February 2, Jean Hanson and I went to the White House. She attended because, as Treasury's senior lawyer, she had been helping me on various RTC legal matters, and the subject matter was inherently legal. She saw nothing wrong with providing this information to the White House. I later learned that she also had the good judgment to check the ethical issues with Dennis Foreman, Treasury's Chief Ethics Officer, who also saw nothing improper. Mr. Foreman, I might add, is a career appointee who preceded the Clinton Administration.

In other words, Mr. Chairman, Treasury's General Counsel and its Senior Ethics Officer both approved this meeting. And as you know, the Office of Government Ethics has also rendered its verdict on that meeting, which is a favorable one.

The meeting lasted no more than 20 minutes. Initially, Ms. Hanson and I described the generic procedures which the RTC used in this or any other case facing an expiring statute of limitations. We recited the three alternatives, following talking points which she had prepared. And this Committee, of course, has a copy of those.

This was the total information provided which related to the RTC investigation of Madison. We provided no information on the status or outlook for the case. That would have been impossible because we possessed none. The Office of Government Ethics, which took testimony under oath from all participants, said in its report

that "nothing suggests that this part of the meeting involved a disclosure of nonpublic information."

Toward the end of the February 2 meeting, I also raised the question of recusal. And let me now address that. Mr. Chairman and Members of this Committee, the issue of recusal is a false one. Whether I recused myself or not would have had no impact on the investigation, none whatsoever. The facts are that I began thinking about recusal around February 1. And that on February 25, I did recuse myself. No matter came to me for decision on any case including Madison in that period.

Moreover, prior to recusing myself, I was de facto recused. Decisions on cases never came to me at any time during my RTC tenure. And I had specifically reaffirmed to the RTC General Counsel before the February 2 meeting that she would be making all decisions related to Madison, not me. Indeed, I had told her that more than once, and with others present, and as you know, she testified before you to that effect.

On February 2, when I informed the White House that I was thinking about recusal, I told them that it was irrelevant because the RTC General Counsel would be making all decisions on Madison, not me. The Office of Government Ethics confirms my de facto recusal. It states in its report that "recusal is just another word for nonparticipation," and I had already chosen nonparticipation.

Nine days after the February 2 meeting, Congress passed a 2-year extension of the statute of limitations on Madison Guaranty—9 days later. That made recusal entirely moot. My term as RTC Chairman was to expire and did expire on March 30. And with such additional time, it was almost certain that the RTC would not be making any Madison decisions by my March 30 termination date.

In retrospect, I perhaps should have recused myself right off the bat. Some of this controversy would have been avoided. But before February 2, I had been advised that there was no legal or ethical requirement to recuse myself. I later received two written opinions from ethics officers to that effect. Two written opinions. Moreover, it isn't clear whether recusing oneself in the absence of such requirements is entirely appropriate either, and the Office of Government Ethics Report questions whether I ultimately made the right decision to recuse or instead had a duty to serve.

I don't think that taking 3 weeks to make such a complex decision is all that surprising. But again, the important point is that I recused myself without ever having participated in any decisions on Madison. Not one decision.

Let me address now the issues which have been raised about my February 24 testimony before this Committee. I have a deep respect for our system of Government, the role of the Congress, and the importance of testimony by the Executive Branch. Our system cannot function properly without honest communication among the three branches. It is the equivalent of a sacred trust.

Now, I testified many times during my 4 years in the Carter Administration, and during my service in this Administration. And I have always tried my best to testify in the most forthright way. I realize that, in retrospect, my testimony of February 24 may appear too narrow or perhaps incomplete. I regret that perception

and I apologize for it. But I want to emphasize that there was never any intent to—never any intent, Mr. Chairman—to mislead this Committee. I prepared for that testimony with 10 or 15 members of RTC and Treasury staff, and my answers were in line with the responses developed by that group.

The relevant exchanges on Madison Guaranty that day consumed less than 10 minutes. I thought that my answers were responsive to the questions I was asked. Given an opportunity to do it all over again, I would have added more information, but my intention was to testify forthrightly, as I have always tried to do. And I hope I can reassure you of that today.

Let me be quite specific about my testimony on February 24. Senator Gramm asked me if I, or any member of my staff, had any communication with the White House regarding Whitewater or Madison Guaranty. I answered that I had one substantive contact. Senator Gramm asked me to describe the substance of that one contact. I described the February 2 meeting at the White House and the discussion about the generic procedures that the RTC would follow when a statute of limitations was about to expire.

I did not mention the meetings between Ms. Hanson and others at the White House on September 24 and October 14 because I was not aware of them at the time of my testimony on February 24. On March 2, 1 week later, I received a call from Mr. Podesta of the White House. He asked me, in effect, about “the other two meetings.” I had never heard of them and told him so and Mr. Cutler’s chronology is clear on that point.

I promptly called Ms. Hanson and Mr. Steiner who confirmed the existence of those two fall meetings. Neither challenged my statement to them that I’d not heard of them previously.

I then prepared and sent a letter to the Chairman of this Committee indicating that I had just learned of two meetings in the fall, my impression that they related to press inquiries, and I wanted to expand the record accordingly. I believe that I also spoke by telephone to Senator Riegle before sending that letter. I wanted this Committee to have the new information immediately. I telephoned Senator Bond, who had asked the original question. I also wanted to advise him immediately. We had a cordial conversation, and he thanked me for alerting him.

Ms. Hanson testified yesterday that her discussion in September 1993, was at my request. I do not believe that to be the case. Recollections can differ, of course, especially on events that occurred 5 months earlier. There is nothing unusual in that. I just disagree with her recollection.

And let me buttress this point in this way. Ms. Hanson helped prepare the questions and answers for my testimony about White House contacts. Ms. Hanson sat directly behind me during my testimony. Just after my response to Senator Bond, if you watch the videotape, I turn to her and she confirmed my answer. Then she and I had lunch together again afterwards. A week passed before Mr. Podesta’s call, which alerted me to the fall meetings. Ms. Hanson, Mr. Chairman, then precleared my letter to Senator Riegle which stated that I had no prior knowledge of these meetings. She signed off on it. At none of those times did she suggest, not one of those times did she suggest that my recollection was faulty.

We also know that Ms. Hanson earlier prepared Q's and A's indicating that I had not asked her to brief the White House last fall. And the Office of Government Ethics Report, released Sunday, indicated that she also answered "no" to a similar question which OGE or its representatives asked.

I believe, Mr. Chairman, and I want to especially address myself to Senator Bond, that these facts confirm my testimony on February 24 that I had no knowledge of those meetings at the time of my testimony.

The Office of Government Ethics Report concluded that no nonpublic information on the case was provided to the White House at the February 2 meeting. No nonpublic information was provided. Its investigation included testimony, taken under oath from all participants in that meeting. Mr. Cutler's report, based on a separate set of interviews with the same individuals, reached the same conclusion. In addition, had sensitive information on any aspect of the case been conveyed, perhaps Mr. Fiske would have reached a different conclusion than the one he did.

Last Friday, Senator D'Amato charged that we had somehow advised the White House that the RTC would be unable to complete its investigation of Madison by the February 28 statute of limitations deadline. And that this somehow signaled the President that he need not enter into a tolling agreement because the deadline otherwise would lapse.

That charge, Senator D'Amato, is categorically false.

Senator D'AMATO. That's not what Mr. Ickes says.

Mr. ALTMAN. Senator D'Amato is wrong on this point.

Senator D'AMATO. Well, Mr. Ickes may be wrong, sir. If he says I'm wrong, I'm going to respond.

Mr. ALTMAN. My testimony on this point was wholly accurate and I want to emphasize that to you, Mr. Chairman. My testimony on this point was wholly accurate and the record makes that clear. Let me review the record. What I told the White House about RTC procedures is documented in my talking points for that meeting which, I know that you have. Those talking points say:

It is not certain when the analysis will be completed, but it will be completed before February 28.

And the OGE report, as I said, which is the most recent report, testimony taken under oath, found no nonpublic information was disclosed on February 2.

Mr. Cutler's report and the chronology state that no such information was given on February 2.

Ellen Kulka, the RTC General Counsel, made perfectly clear that no matter what, she and the RTC would be ready to make a decision by February 28.

I believe, and you can ask Mr. Ickes yourself when he appears before you, that he did not intend to say I had told the White House the investigation could not be concluded by February 28.

Now, much has been made of my supplements to the record after the February 24 hearing. I do not entirely understand this. The Chairman said at the conclusion of the hearing that the record was open for additional information. It has always been my impression that supplementing the record was a constructive act, not a bad act.



I want to stress to this Committee that there was not a pattern of withholding or concealing information. It's really the opposite. As soon as I learned or received information, as in the case of the two fall meetings, I immediately provided it to the Committee. It could not all have been provided in the first letter, because I didn't have it all then. Only through a comprehensive review of files and logs was more information uncovered. And ultimately an exhaustive review by Counsel turned up the final information. I believe that providing such information to this Committee, as soon as it was available, was the right step to take. It was not a case of dribbling out information which I had all along. Let me be specific.

There was only one discussion which related to the RTC investigation itself and factors which could affect its outcome. That was the discussion of generic alternatives facing the RTC in regard to the expiring statute of limitations.

On February 24, Senator Domenici asked me if there were other contacts beyond the February 2 meeting. My response was, in effect, that I'm not counting bumping into someone in the hall or debating stories in the morning newspapers. This clearly indicated that there may have been other contacts, but that I regarded them as incidental. Had Senator Domenici or any other Member of the Committee then asked me to review any other contacts, I would have done my best, Senator Domenici, to recall them. But those additional contacts after February 2, indeed, were incidental. They could not have had any bearing whatsoever on the case. They had nothing whatever to do with the RTC investigation.

But in the days and weeks following my testimony, it became clear that any contacts which could be remotely tied to the catch-all term "Whitewater" could be regarded differently. And as a result, I carefully reviewed my calendar, my telephone calls, and incidental contacts with White House personnel. I wanted to bend over backward to be as complete as possible.

I amended the record to include other incidental contacts, although I did not then and I do not today consider them related to the substance of Madison. Initially, there was a brief telephone call to Mr. McLarty a few days after the February 2 meeting to the effect that I was still considering the issue of recusal. Similarly, around the same time, I had a brief discussion with Harold Ickes to tell him essentially the same thing. Those brief conversations on recusal could not, under any circumstances, have had a bearing on the case. They could not, under any circumstances, have had a bearing on the case. I had already removed myself from any possible role on the case.

Finally, the record was also amended to advise the Committee that I had a brief discussion with Mr. Ickes the night before my testimony. I told him that I intended to announce during my testimony that I was stepping down as CEO of the RTC, as I did, indeed, announce the next day. Members of the Committee, that had nothing to do with the RTC investigation of Madison.

Around the same time, I literally ran into Mr. Nussbaum in a corridor of the White House. He told me the Administration would soon be submitting its nominee for permanent RTC head. That had nothing to do with the RTC investigation of Madison either, but I

nevertheless amended the record on a voluntary basis so that there would be no question.

Some think that I consciously failed to mention these other incidental contacts. That isn't true. When we were here 5 months ago, I believed that I was responding properly to the questions. I assure you, Mr. Chairman, in the most heartfelt way, that there was no intent to mislead this Committee.

Questions also have been raised as to why the subject of recusal was not included in the February 24 testimony. I was not asked about recusal. There were several Q's and A's in my briefing book on recusal. A team of 10 or 15 members of Treasury and RTC staff helped to prepare them. Had there been any attempt to intentionally withhold information on the recusal, one surely wouldn't have rehearsed answers on that subject with such a large group.

Had I been asked about recusal, I would have responded forthrightly. Senator D'Amato and I had a conversation the night before my testimony. Among other things, he said he was going to ask me about recusal. Neither he nor any other Member of the Committee did ask me about recusal. While I have reservations about Mr. Steiner's diary, as you can imagine, you heard his testimony this morning, it confirms the view that recusal wasn't asked.

I did not mention recusal in my testimony because I did not think it was responsive to the question I was asked. Members of the Committee, I may have been wrong in this regard, but I had no intention to mislead or withhold information from this Committee. I believed at the time that the Committee was interested in knowing whether Treasury or the RTC had improperly provided information on the substance of the Madison case. That was what was in my mind as I heard that question. I was anxious to tell this Committee, as the videotape shows, that I informed the White House only about the generic procedures the RTC would employ in such circumstances and about nothing else relative to the Madison case.

Indeed, I remember saying, "that was the whole conversation" and what I meant by that was that was the whole conversation with respect to what I believed was the substance of the case. No one asked me to describe everything that happened at the February 2 meeting. Had they, I would have done my best to do so.

I did not and I still do not consider recusal to touch upon the RTC investigation of Madison. Now, of course, I see the Committee Members may feel that I was being too precise in my answer. I assure the Committee that it was not my intent to mislead or to withhold information. Indeed, I had with me on February 24 in my briefing book a series of question and answers on recusal which I was prepared to give in response to questions about recusal. And I had anticipated being asked directly about recusal, just as Ricki Tigert had been by the Committee a few weeks earlier, but I was asked no such questions.

I have read news accounts of a battle over my recusal. The total discussions which I had on recusal with White House personnel consumed approximately 10 or 15 minutes. I said that I'd been advised to recuse myself and I intended to take that advice. I didn't say when. No one asked me not to recuse myself. Mr. Steiner's diary points out that, after the February 2 meeting, everyone knew

that I wasn't going to play any role in this case. Yes, I did waver on timing, but I did execute the recusal 3 weeks later.

In closing, I would like to reiterate the key facts. Three separate investigations have concluded that no legal or ethical violations occurred. Three separate investigations. No one interfered in any way with the Madison case nor improperly imparted information on it. I believe that my testimony of February 24 was truthful.

I hope that these points and the answers I'll now provide to your questions will satisfy this Committee that my conduct was proper.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Altman.

Let me just indicate that a vote has started on the Senate Floor. Mr. Altman's attorney has asked us to permit a viewing of the February 24 testimony before this Committee when these questions were asked to you and your responses, and I think it will be useful for us to see the actual videotape of those exchanges. I think we'll hold off on that until the second bells have started, until we've voted, and then we'll commence with the questioning.

I want to say one other thing before starting the question period, and I want to say that in a personal vein, and I know Senator D'Amato may have a personal comment to make, too.

We've known each other over a long period of years. We've worked together on other issues in the past. This is not a happy occasion for any of us. Going back to the meeting before this Committee when the questions were asked and the answers were provided, we were left with a very, I think, inadequate situation. So much so that the Special Counsel, Mr. Fiske, decided upon the basis of the responses that day to go ahead and commence an investigation himself which he did by subpoenaing a number of people and taking them before the Grand Jury. Now, we're coming along behind his review in that area in terms of trying to clear up the record for ourselves.

So it has been kind of a long and winding road from that hearing, when you were before us, and we'll have the chance to look at the exchanges and then we can go into the questions at that time. We'll do so as soon as we come back.

The Committee stands in recess for about 15 minutes.

[Recess.]

The CHAIRMAN. The Committee will resume.

Let me give an indication of where we are in terms of our situation on the Senate Floor. We've completed one roll call vote. We'll have another one shortly and we'll have to excuse ourselves for that purpose. I'm going to hold off until all or most of the Members have had a chance to return in order to play the videotape. I think we should wait until we've got a more complete attendance, as we had before.

I think what I will now do is begin some of the questions that I have. We may get interrupted here quite soon for this second vote and we'll go from there.

I asked the staff to give you in the interim, if you didn't have it, the diary pages from Mr. Steiner. Had you had a chance to see those beforehand?

Mr. ALTMAN. These were shown to me, Mr. Chairman, in connection with my deposition, which was the first time I'd seen them.

The CHAIRMAN. But the point is you have them. I'm not going to go into them now; I just want to make sure you have them there for a reference when I do go into them.

Mr. ALTMAN. Yes, sir.

The CHAIRMAN. In listening to your statement and the time we spent with Ms. Hanson yesterday, there's obviously a direct contradiction with respect to these meetings that took place in 1993 at the White House. When she went over there, she says at your instruction, to brief Mr. Nussbaum about this pending criminal referral issue—she was very explicit yesterday. I don't know if you happened to see her testimony, but we cross-examined her at some length on that—she was very firm in her recollection that you specifically had given her that instruction. Now, I want to hear your side.

Mr. ALTMAN. Mr. Chairman, before I answer, may I just make one point in response to the one you made just before the break. I'm advised that Mr. Fiske commenced his investigation on account of the February 2 meeting which I disclosed here on February 24, not as a result of any other aspects of my testimony. That's just how I'm advised. Be that as it may, I have no recollection of asking Ms. Hanson to go to the White House—

The CHAIRMAN. Let me just stop you there. It may not be a major point, my general sense was that the "heads up" comment you made gave rise to the issue of contacts that had been going on back and forth between the White House, and that caused Mr. Fiske to want to understand exactly who had spoken to whom about what, and he then cast the net out over all these people. I believe that was the predicate that got that concern going.

Mr. ALTMAN. Senator, that's also my understanding. I was just reacting to the point of whether he launched his investigation for reasons of veracity of testimony. I think you are right the way you just put it.

The CHAIRMAN. Why don't you go ahead.

Mr. ALTMAN. Yes, sir. I have no recollection of asking Ms. Hanson to go to the White House last fall. I did not task her to do that, using that odd word, to the best of my memory. Remember I was never myself briefed, Mr. Chairman, on the details of the criminal referral. I was never taken through it. I was never told how many referrals there were or the list of individuals named. I never had that full briefing. I believe Mr. Roelle testified, for instance, that when he first called me to talk about it, that I cut him off and said that I didn't understand it, would he talk to Ms. Hanson. But in any event, I never had a full briefing on that, nor did I on any other case.

The CHAIRMAN. Let me sharpen the question for you because we are under time limits. I will not cut you off in your responses, but I want to make sure you know exactly what it is that I'm after here so you can give a direct answer to it. And that is, she said that you did give her an instruction and tell her to go and do that. You said initially you had no recollection of that, and I want to be clear in my mind whether you're saying categorically that you did not do that, you would not have done that, or are you saying that you don't have any recollection and there is a possibility, in fact, you might have done it, but just can't remember it.

Mr. ALTMAN. I'm saying that I have no recollection of doing it, but when I hear the term "task," that I tasked her to do it, I don't think I would have done that. We also know, Mr. Chairman, that her meeting in September occurred in a brief aside, according to her testimony at the conclusion of another meeting, the Waco meeting, which was the reason she went in the first place. In other words, she didn't go over there solely for the purpose of talking about the matter she discussed. But the point I tried to stress, in my testimony, is that I think there is compelling evidence when I sat here before you on February 24 that I did not know of the fall meetings. And I think the facts that I cited, the numerous facts I cited, do a very strong job of corroborating that.

The CHAIRMAN. Well, in hindsight now, you don't have a recollection of sending her over to do that as she recalls, you're not making categorical denial, as I just heard your words, but you can amplify that if you wish to. But looking back now and thinking about it, had you known about it ahead of time, would you have said don't do it? Was this something that should have happened?

Mr. ALTMAN. Mr. Chairman, as you know, the Office of Government Ethics reviewed that matter and concluded, paraphrasing, that there was nothing inappropriate in those meetings.

Now, I was questioned at great length and under oath by the representatives of the Office of Government Ethics, many hours, and I'm sure that all the other witnesses were too. So I believe that its conclusion, the OGE's conclusion, should be taken very seriously, and I think it's most important to remember that there have been no ethical violations.

The CHAIRMAN. No, I understand that. My question to you is, when you hear about that even after the fact, is that something you say to yourself, well, that shouldn't have happened. In other words, I'm trying to understand, going back to the contradiction, her recollection versus yours, if that had come up back in that time frame, if that is something in your mind that would have caused you to react and say no, I wouldn't have had her do that because I would have thought that was an inappropriate thing to do.

Mr. ALTMAN. My understanding is that she advised the White House in September for reasons of an impending press leak and I believe Mr. Roelle confirmed his understanding to be the same, and others who have testified or will testify will say that.

I see nothing wrong with it, Mr. Chairman, if that was the motivation. And had I been asked, had someone come to me and said there is an impending press leak, not knowing the information that I did not know about the referrals, I'm not sure what my reaction would have been.

The CHAIRMAN. Let me ask you one more question. My time is rapidly fading. You had asked early on, in assuming this temporary RTC job, that you be informed if there was a high profile case, that it be brought to your attention.

Mr. ALTMAN. No, sir.

The CHAIRMAN. That's not true?

Mr. ALTMAN. That's not true. I only asked one thing in that respect, and, of course, like many other aspects like this, it's been widely mischaracterized. I simply said, that before the RTC releases to the press a decision which could have major press impact

or leak potential, that I wanted to know what the decision was. I never asked to be kept abreast of any investigation during the course of the investigation.

The CHAIRMAN. No, I understand. That's not what I said. The question was, if there was a high profile case, did you want to be informed that there, in fact, was a high profile case out there kicking around in some way. I mean, our record shows that you had indicated that you didn't want to be blindsided by those kinds of cases, that's my word.

Mr. ALTMAN. I said I made these comments in the context of press policy that I didn't want to begin to receive inquiries on an RTC decision which had been released.

The CHAIRMAN. Well, let me just finish this way, my time is up and we're going to have to go and vote here. Back in the fall of last year, do you have any memory at all of Ms. Hanson telling you anything about this criminal referral issue, whether or not there was a conversation about her going to the White House and telling Nussbaum, do you remember being informed by her at all about it?

Mr. ALTMAN. Mr. Chairman, I testified on February 24, and I've done the same, of course, in all the depositions since then. That last fall, number one, was the first time I heard of the referrals, not in March. And second, that either Mr. Roelle or Ms. Hanson or both, I just can't recall anything better than that, advised me that a criminal referral was in the works, that it could cite the President and First Lady. I was given no information as to the prospects for a referral, would it be referred or not. I was not told a thing about that, simply that it was in the works. And I responded by saying, as I think the others have attested, that this ought to be handled in identical fashion to any other case, and then whoever it was said such decisions are typically made at the regional office level, and I said fine, then that's how it should be made in this case.

The CHAIRMAN. Did you share that information with anybody at the White House at any time yourself?

Mr. ALTMAN. No, sir.

The CHAIRMAN. I'm going to suspend now so we can go and vote and when we return Senator D'Amato will be recognized. We'll stand in recess for 10 minutes.

[Recess.]

The CHAIRMAN. The Committee will come to order.

Let me invite everyone to find a seat. We have a few Members coming back from the vote who have not yet arrived and in deference to every Member and to Mr. Altman as well, I'm going to let Senator D'Amato go ahead with his first round of questioning. Then if we're pretty much all reassembled, I'm going to take the time to show the videotape, and that way everyone will have the chance to see it. If that's acceptable, I'm going to call on Senator D'Amato now for his first round of questioning.

Senator D'AMATO. Thank you very much, Mr. Chairman.

Mr. Altman, let's go back to the night of February 23, about 5:30 p.m. Do you recall having called me at my office?

Mr. ALTMAN. I recall that we had a conversation that evening, Senator.

Senator D'AMATO. You called me ostensibly for the purpose of advising me that you were considering, the White House was considering, a nominee to take over as the head of the RTC; is that correct?

Mr. ALTMAN. That may have been why I called. I don't recall precisely, but that sounds right.

Senator D'AMATO. Let me refresh your recollection. You called me specifically for that and you mentioned Mr. Larry Simon. Do you recall now?

Mr. ALTMAN. I recall having a conversation with you about that.

Senator D'AMATO. Then you went on further to say, would I meet with Mr. Simon? You said, you did not want to put forth his nomination unless I felt comfortable with it, and I said have Larry call me. Do you recall that?

Mr. ALTMAN. Yes, sir.

Senator D'AMATO. I went on to say to you, and I find it rather ironic because the very next day you used this language, I think you referred to "heads up." I said I want to give you a "heads up." We're going to ask you tomorrow about the issue of recusal because I believe you're in an untenable position. Do you remember that?

Mr. ALTMAN. I remember you said you were going to ask me about recusal.

Senator D'AMATO. Do you remember me telling you we're going to ask you if you had any contacts, you or the Treasury, with the White House as it relates to Madison/Whitewater? Do you recall that?

Mr. ALTMAN. No, I don't recall that specifically.

Senator D'AMATO. That is specifically the conversation. Thereafter, I believe you had occasion to speak to Mr. Ickes, is that true, about 5:30 p.m., a little after 5:30 p.m., didn't you have a telephone conversation with Mr. Ickes?

Mr. ALTMAN. I spoke to Mr. Ickes that afternoon, I don't know if it was before or after your call.

Senator D'AMATO. Did you speak to Mr. Ickes about the question of Whitewater and recusal?

Mr. ALTMAN. I recall saying to Mr. Ickes that I intended to announce in my testimony on February 24, I would be stepping down as RTC Chairman on the scheduled expiration date of March 30.

Senator D'AMATO. So you had a contact with Mr. Ickes as it related to the recusal and as it related—

Mr. ALTMAN. No, Senator. I don't recall any conversation between myself and Mr. Ickes on recusal.

Senator D'AMATO. Fine. Do you recall the 24th you came in and you testified before us?

Mr. ALTMAN. Yes, sir.

Senator D'AMATO. All right. Let me refer you to the same question that I advised you was going to be asked, you see, because we had prepared those questions and Senator Gramm wanted to raise that issue, and he did:

Senator GRAMM. I have a simple question that I want to ask most of the members of the panel and let me just read it. Mr. Altman, I want to ask you first, have you or any member of your staff had any communication with the President, the First Lady, or any other representatives, including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

Mr. ALTMAN. I have had one substantive contact with the White House staff and I want to tell you about it.

Senator GRAMM. Let me, if I may, just given—that's a yes. I would like to know what the substance of that communication was, when it occurred, who initiated it, and what you were asked to do.

Mr. ALTMAN. First of all, I initiated it, it was about 3 weeks ago Jean Hanson, who is Treasury General Counsel, and I requested a meeting with Mr. Nussbaum.

And you went on to describe that meeting. Now, that is the one meeting that you made reference to; is that correct.

Mr. ALTMAN. That's the only substantive contact I had with the White House.

Senator D'AMATO. That's not the question that Senator Gramm asked you. He asked you, and I refer you to the record, if you have it there in front of you, "have you or any member of your staff had any communications." He didn't say the question of substantive or for you to make an evaluation. "Any communications with the President, the First Lady, or any other representative, including their legal counsel or any member of the White House staff concerning Whitewater or the Madison Savings & Loan"; is that correct?

Mr. ALTMAN. That's—

Senator D'AMATO. You said one, and you referred to one meeting; is that correct?

Mr. ALTMAN. I immediately said in response to Senator Gramm that I've had one substantive contact.

Senator D'AMATO. Correct.

Mr. ALTMAN. And I proceeded to describe that one substantive contact.

Senator D'AMATO. Let me refer you.

Mr. ALTMAN. Senator Gramm, as you know, then interrupted me, properly so, and said tell me about the substance of your contact.

Senator D'AMATO. Let me ask you about this. Do you recall having a meeting with Maggie Williams, the Chief of Staff for Mrs. Clinton, a member of the White House staff? You know Maggie Williams?

Mr. ALTMAN. I certainly do.

Senator D'AMATO. Did you have a meeting in early January in which you recorded in your diary, and I have the diary notes here, or in slips of paper which you collected and wrote your thoughts. I have one dated January 4, 1994. "Diary" it says at the top of it. It says, "on Whitewater Maggie told me that Hillary Clinton was paralyzed by it. If we don't solve this within the next 2 days, you don't have to worry about her schedule on Health Care." Do you recall this?

Mr. ALTMAN. To the best of my recollection, Senator, that was an aside to me during a meeting on Health Care.

Senator D'AMATO. Then let me give you some more about it.

Mr. ALTMAN. I want to emphasize if I may, Senator.

Senator D'AMATO. Let me read the rest.

Mr. ALTMAN. That has nothing to do with the RTC investigation of Madison.

Senator D'AMATO. We're talking about—there's no comment about investigation here. It "says any contact with the White House, with the President, First Lady, or any of their representa-



tives, including their staff concerning Whitewater or the Madison Savings & Loan."

Mr. ALTMAN. Senator——

Senator D'AMATO. Now let me finish. And here is Maggie Williams telling you that on Whitewater, and you start off on Whitewater, then you went on to say that Lloyd Bentsen went over to see George. I take it that George is George Stephanopoulos?

Mr. ALTMAN. I believe so.

Senator D'AMATO. On Whitewater yesterday to urge "lancing the boil" and I have him quoted here:

Maggie strongly indicated that the White House is trying to negotiate the scope of the Independent Counsel with Janet Reno and they were having enormous difficulty.

Let me ask you, was that not about Whitewater?

Mr. ALTMAN. Senator, when I used the term "substantive"——

Senator D'AMATO. Listen, please don't tell me about "substantive." Was that about Whitewater? You are now telling us that the only contacts that you thought that Senator Gramm raised were substantive? He said any contacts with the White House.

Let me finish.

You went on to say, "Hillary Clinton doesn't want the Counsel poking into 20 years of public life." I submit to you that's at least one contact that you are aware of and that you certainly didn't tell us. And I have a whole number of these that I'm going to go through with you as time permits, you see, because, I think——

Mr. ALTMAN. May I respond to that?

Senator D'AMATO. —Given the fact that I told you the night before, given the fact that the night before you spoke to Mr. Ickes on the issue of recusal, and that whole issue centered around Whitewater. For you to suggest to this Committee that recusal had nothing to do with Whitewater is a—would be a figment of somebody's imagination and would be at the very least disingenuous.

I see my time is up, but we'll return to these other meetings that you never told us about.

Mr. ALTMAN. May I respond to that?

Senator KERRY. Mr. Chairman, he's been asked a question. He should be allowed to respond.

Senator D'AMATO. I see the red light is on, but go ahead.

Mr. ALTMAN. Senator D'Amato, I disagree, and I do so vehemently, with the premise of the question. I responded on February 24 that I had one substantive contact. That's the way I responded. And by that, I meant relating to the RTC investigation of Madison. None of the conversations that you just enumerated had anything to do with the RTC investigation of Madison, and I used the word "substantive" for that purpose.

The CHAIRMAN. Well, I——

Senator D'AMATO. I might point out, Mr. Chairman, that wasn't the question. The question Senator Gramm raised did not say "any substantive communications." It said "any communications with the White House or with staff."

Mr. ALTMAN. Senator D'Amato, Senator Gramm immediately said, well then, give me the substance of the conversation.

Senator D'AMATO. That's fine, because you indicated——

Senator GRAMM. "Substance" means what was it about. It doesn't mean there's a difference between substantive and substance.

Mr. ALTMAN. Senator, I used the term——

The CHAIRMAN. Well, there will be—and we're going to stay here as long as it takes to work through this so that every Senator is satisfied on these issues and we will do that.

I think now before I yield to Senator Sarbanes—and most Members, I think all Members are back, this might be an appropriate time to play this videotape that will include, I believe, this exchange. So if we're ready, why don't we do that now and that will refresh everybody as to what took place that day.

Senator DODD. Whose tape is this?

The CHAIRMAN. Senate tape.

Senator DODD. This was done at the request of the witness, Mr. Altman.

The CHAIRMAN. And with my concurrence, I think it's a very good idea that we see it.

Senator DOMENICI. Mr. Chairman.

The CHAIRMAN. Yes.

Senator DOMENICI. Mr. Chairman, I don't know how you would decide this, but I want to raise a point. I have every confidence that Mr. Altman should be—I mean every agreement that he should be represented by counsel, but I think the young man sitting behind him keeps handing him papers. It seems to me he ought to identify himself and, perhaps, sit at the table as his counsel or, at least, we ought to know who is handing him notes for the purpose of the hearing.

Mr. ALTMAN. Senator Domenici, I'd be delighted to identify these gentlemen.

The CHAIRMAN. I agree, he ought to identify them. Who are they, Mr. Altman?

Mr. ALTMAN. To my right, Mr. John Kenney is a partner in the law firm of Simpson, Thacher & Bartlett in New York, representing me. And to my left, his associate, Mr. Paul Curnin.

Senator DODD. Why don't you continue.

Mr. ALTMAN. Sitting next to Mr. Curnin is my wife, my beloved wife, and sitting next to her is my good friend, B.A. Bentsen. Next to her, my friend, Cathy Sloan; my brother, Richard Altman; my oldest friend, Jay McLaughlin; and the other gentlemen are not associated with me. They used to want to be, but now they're not.

The CHAIRMAN. Looks to me like you still have a pretty good coterie around you here. Can we go ahead and see the videotape?

[Videotape started.]

Senator GRAMM. I just have a simple question that I want to ask of most of the members of the panel, and let me just read it.

Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives, including their legal counsel, or any member of the White House staff, concerning Whitewater or the Madison Savings & Loan?

Mr. ALTMAN. I've had one substantive contact with White House staff and I want to tell you about it.

Senator GRAMM. Let me, if I may, given that "yes," I'd like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

Mr. ALTMAN. First of all, I initiated it. About 3 weeks ago, Jean Hanson, who is Treasury's General Counsel, and I requested a meeting with Mr. Nussbaum—he's the White House Counsel. The purpose of that meeting was to describe the proce-

dural reasons for the—procedural reasons for the then-impending February 28 deadline as far as the then-statute of limitations was concerned. I'm sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims.

And we explained the process which the RTC would follow in reaching a decision before that February 8 deadline; that it would be exactly identical to procedures used in any other case, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim or whether there did not. And in the event that the basis for a claim existed, then it would pursue either a tolling agreement—which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest, or it would file that claim in court.

That was the whole conversation. I was asked one question. That question was whether we intended to provide the same briefing to attorneys for the parties at interest. I said I assume so.

I went back. Jean Hanson checked with the RTC General Counsel and the answer was, in due course. I said fine. That was it. I have not had any contact with the President of the United States or the First Lady on any matter like this.

[Videotape ended.]

The CHAIRMAN. There's more coming here, just one moment.

[Videotape started.]

Senator D'AMATO. Mr. Chairman, I have to say to Mr. Altman that I would like to go back to the question that Senator Gramm brought up and as it relates to any meetings with White House staff or counsel.

Mr. Altman, I think you said that you and an official from Treasury sought out Mr. Nussbaum. Is that correct?

Mr. ALTMAN. Yes, I did.

Senator D'AMATO. Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House Counsel?

Mr. ALTMAN. Solely to ensure—

Senator D'AMATO. Solely to—

Mr. ALTMAN. Solely to be sure that he understood the legal and procedural framework within which the RTC was working. If you recall, as I said, at that time there was a February 28 date that was the subject of major attention in the Congress and in the press. It's not uncommon for meetings of that type to take place and I describe it as a "heads up," and a very stiff conversation.

Senator D'AMATO. A "heads up," in what connection would that "heads up" be? Do you mean that the statute of limitations was running?

Mr. ALTMAN. No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28, 1994.

Senator D'AMATO. Were any representatives of the President or Mrs. Clinton, or any legal counsel, which I think would be appropriate, speaking to the counsel for the RTC, or people handling this particular matter? I mean, was there any legal representation going on? Did you just call them? Did they have any representatives or any counsel who may have been meeting with staff people, or talking to staff people?

Mr. ALTMAN. I was accompanied by our General Counsel, Treasury General Counsel. Mr. Nussbaum had his assistant with him. And Mr. Ickes and Margaret Williams were both at the—

Senator D'AMATO. Oh, Ickes is in it, huh? Let me ask you this. Prior to this meeting, was there any representation, was there any counsel, that was representing the President's interest or Mrs. Clinton's interests, or anyone else that you were aware of, as it relates to the matter that you went to brief them on?

Mr. ALTMAN. No. Not to my knowledge. Nor were there any subsequent conversations.

Senator D'AMATO. Let me ask you, did anyone request this meeting?

Mr. ALTMAN. I requested the meeting.

Senator D'AMATO. Was there any other meeting that may have been requested?

Mr. ALTMAN. No.

Senator D'AMATO. There was no other meeting that you were aware of that the White House Counsel requested?

Mr. ALTMAN. No.

Senator D'AMATO. Or anyone else from the White House?

Mr. ALTMAN. No.

Senator D'AMATO. Mr. Ickes?

Mr. ALTMAN. I had no—I received no subsequent request for meetings.

Senator D'AMATO. What about private counsel? Did private counsel—I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel meeting with staff lawyers at some level?

Mr. ALTMAN. Not to my knowledge, Senator.

[Videotape ended.]

The CHAIRMAN. Let me just indicate there now needs to be a tape change. There will be two more segments to review here and then we'll be finished with this viewing.

Senator GRAMM. Mr. Chairman, while they're doing that——

The CHAIRMAN. Go ahead with the tape, please.

[Videotape started.]

Senator BOND. Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

Mr. ALTMAN. Last fall. I was advised that the question of a referral to the Justice Department was under consideration at the RTC. And as other members of the RTC staff will attest, I said that normal procedures with no deviation whatsoever should be pursued, including chain of command procedures, in terms of reaching that conclusion. I might tell you that typically decisions like that are made at the Regional Office level, and it was in this case.

Senator BOND. Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clintons' name should be in the new expanded referral?

Mr. ALTMAN. No.

Senator BOND. You did not know they were asking for the National Office to make a determination?

Mr. ALTMAN. No. I was simply informed that this issue was on the table, and my reaction was—and I had only one conversation about it—that normal procedure should be followed. That's the way we're going to handle this thing to the very end.

Senator BOND. How was the White House notified of the referral, was it from the RTC?

Mr. ALTMAN. They were not notified by the RTC, to the best of my knowledge.

Senator BOND. Nobody in your agency, to your knowledge, advised White House staff that this was going to be a major—this could be a major source of concern?

Mr. ALTMAN. Not to my knowledge.

Senator BOND. Ms. Ford, do you know if the White House was notified by the RTC?

Ms. FORD. No. We have had no involvement at the Oversight Board whatsoever.

[Videotape ended.]

Senator BOXER. Mr. Chairman, could you go back to the point when she shook her head no.

The CHAIRMAN. I don't mind doing that. I think we ought to see the fourth piece here and then we can go back and do that. There may be other requests, too.

Senator BOXER. Fair enough.

The CHAIRMAN. No, technically the way we were able to get this material—it's got to go back, you'll see the final section.

[Videotape started.]

Senator DOMENICI. You and you counsel went up to talk to the White House Counsel.

Mr. ALTMAN. It wasn't a substantive meeting.

Senator DOMENICI. Please——

Mr. ALTMAN. One substantive or meaningful contact.

Senator DOMENICI. I assume we're not arguing there that you had—you're not suggesting that you had more than one, are you?

Mr. ALTMAN. No, I'm just saying if you run into someone in the hall—did you see that thing in the paper this morning? I'm not including that.

Senator DOMENICI. You said you were there to give a "heads up." What I understand the situation to be for average folks, like a couple of them in my State that were bordering up on the statute of limitations becoming a defense, they were presented with a tolling agreement and if they didn't sign it a suit was filed. So as to toll the statute, limitations. Is that a rather fair assessment of the way business is done?

Mr. ALTMAN. I think I'd have to know the details of the matter, Senator.

Senator DOMENICI. I guess what I'm wondering is, are we getting the right perspective of why you did this? Did you go there because you, wanted them to know that, clearly, they might be asked to sign a tolling agreement? Or, to know that the normal process was that the statute is going to toll and that there is reasonable grounds to suspect something, they might expect a lawsuit? Why else would you give them "heads up"?

Mr. ALTMAN. The difference between this and a matter like the one you referred to is that I had been receiving—had begun to receive a lot of inquiries, including in writing from Congress, as to what procedures the RTC was going to follow. I wanted to give them the same sense of those procedures that I was giving Members of Congress. I said to them nothing different than I've said to Members of Congress.

Senator DOMENICI. I understand that, but I guess what I'm getting at is there must have been a reason for telling them that. Congress was just saying "the statute is going to run, what are you going to do." So you went over there to tell them we're going to apply the same thing we do in any other case? That's the "heads up" you were giving them?

Mr. ALTMAN. That's right.

Senator DOMENICI. Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules, like asking for a tolling agreement or filing a lawsuit?

Mr. ALTMAN. Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28, 1994. The RTC was going to make every effort to make a decision by that date. It could fundamentally reach one only of two decisions: That there was a basis for a claim, or there was not. If there was a basis for a claim, then we would either seek a tolling agreement to permit more discovery and more preparation, or we would file that claim in court.

Senator DOMENICI. Well, the passage of the statute of limitations extension eliminates that problem, as you have already indicated. I guess, Mr. Chairman, I'm having a little difficulty with the explanation. One way of looking at it was that it was not a very meaningful or important meeting; that he was just doing this so that he would be able to tell Congress he had told them he's going to treat them the same way as others. I don't think a man—I know you fairly well, I don't think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they're going to be treated the same way as other people.

Mr. ALTMAN. Senator, I did not know whether they knew of such procedures which, as I say, I was then communicating to Members of Congress. It just seemed to me a little odd to explain to a Member of Congress that we're going to following X, Y, Z procedures and not have them ever be made aware of what those were.

[Videotape ended.]

The CHAIRMAN. That constitutes the four segments that fall into this area.

Senator SARBANES. Could we see the first? I think others were interested as well, the first section of that segment, the answer to the Bond question.

Senator BOXER. I thought it was the third tape.

The CHAIRMAN. I think it's the third segment that was raised before. Is there an objection to doing that, running that segment again? All right. Run the third segment a second time if you would.

[Videotape started.]

Mr. ALTMAN. A list of the documents.

Senator BOND. Is that the latest version?

Mr. ALTMAN. This is just a list of what the documents are. There are 6,500 in total.

Senator BOND. If you could make one available for the record, we'd like to have that. I appreciate it. Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

Mr. ALTMAN. Last fall, I was advised that the question of a referral to the Justice Department was under consideration at the RTC. And as other members of the RTC staff will attest, I said that normal procedures with no deviation whatsoever should be pursued, including chain of command procedures, in terms of reaching that conclusion. I might tell you that typically decisions like that are made at the regional office level and it was in this case.

Senator BOND. Were you aware that the regional office had asked the national office to make a determination as to whether the Clintons' name should be in the new expanded referral?

Mr. ALTMAN. No.

Senator BOND. You did not know that they were asking for the national office to make a determination on that?

Mr. ALTMAN. No, I was simply informed that this issue was on the table and my reaction was I had only one conversation about it, that normal procedure should be followed. That's the way we're going to handle this thing to the very end.

Senator BOND. How was the White House notified of the referral? Is it from your agency?

Mr. ALTMAN. They were not notified by the RTC to the best of my knowledge.

Senator BOND. Nobody, nobody in your agency to your knowledge advised the White House staff that this was going to be a major—this could be a major source of concern.

Mr. ALTMAN. Not to my knowledge.

Senator BOND. Ms. Ford, do you know if the White House was notified by the RTC?

Ms. FORD. No, we have had no involvement at the Oversight Board whatsoever.

[Videotape ended.]

The CHAIRMAN. The next person in order of question. We may all have questions here.

Senator Sarbanes.

Mr. ALTMAN. Mr. Chairman, may I thank you for showing that. I appreciate that very much.

The CHAIRMAN. I think it was necessary to show it. I think we would have shown it even if you hadn't asked, we had a mutual interest in seeing it, but I think that's important for us to put that up front here.

Senator SARBANES. Thank you very much, Mr. Chairman.

Mr. Altman, I'd like to direct you to page 8 of your statement. You were working from a reading copy, weren't you?

Mr. ALTMAN. I have it, Senator.

Senator SARBANES. From the Committee. At the bottom of the page, you say, "then she and I had lunch together afterwards," meaning Jean Hanson; is that correct?

Mr. ALTMAN. Yes, sir.

Senator SARBANES. Do you mean together after the hearing?

Mr. ALTMAN. After the testimony, which was very lengthy, a group of those who had helped me on it, several came to my office and I provided sandwiches to everybody and Jean was there.

Senator SARBANES. This was back at the Treasury?

Mr. ALTMAN. Yes, sir.

Senator SARBANES. Did she say anything to you at that meeting about the testimony you had just given?

Mr. ALTMAN. No, sir, she did not. Nor, may I add, did anyone else.

Senator SARBANES. Did you go back to the Treasury together with Ms. Hanson?

Mr. ALTMAN. I don't recall, Senator. I don't remember whether we did or we didn't return together.

Senator SARBANES. When you responded to Senator Bond in that question we just saw, he asked you how was the White House notified of the referral. We now know the White House was notified of the referral by Jean Hanson; is that correct?

Mr. ALTMAN. That's my understanding.

Senator SARBANES. Now, you said to him, in responding to that question, "not notified by the RTC to the best of my knowledge."

Mr. ALTMAN. Yes, sir, I did.

Senator SARBANES. Jean Hanson is not part of the RTC is she?

Mr. ALTMAN. No, sir.

Senator SARBANES. So if that answer was correct, but it did not cover Jean Hanson notifying the White House, is that the case?

Mr. ALTMAN. That certainly can be interpreted that way, yes, sir.

Senator SARBANES. And when you carefully said "not notified by the RTC to the best of my knowledge," were you excluding out notification by the Treasury people?

Mr. ALTMAN. I can't recall what was precisely in my mind, but I wasn't aware of any notification of any kind to the White House on the criminal referral at that time.

Senator SARBANES. Well now——

Mr. ALTMAN. Or any meeting, I guess I should say.

Senator SARBANES. You said last fall I was advised that a referral was about to be made, didn't you, in that segment?

Mr. ALTMAN. Yes, sir, I was advised.

Senator SARBANES. And then what happened with that advice, who advised you?

Mr. ALTMAN. Either Mr. Roelle or Ms. Hanson or both.

Senator SARBANES. Now, Ms. Hanson was very explicit in testifying that she went to Nussbaum—told Nussbaum on the basis of a directive from you. Are you aware of that testimony?

Mr. ALTMAN. I am, sir, and I just disagree with her recollection.

Senator SARBANES. And you responded to Senator Riegle earlier, as I understand it, not that you couldn't recollect—in other words, we don't have a situation in which Ms. Hanson says this is what happened and you're saying, well, I don't remember whether that's what happened or not. You now are telling us that your recollection is different from hers and contradicts hers; is that correct?

Mr. ALTMAN. Yes, sir. Moreover, I just don't understand why she would have signed off on my letter to Senator Riegle explaining that I had just learned of the two fall meetings if she didn't agree with my—with that statement.

Senator SARBANES. Now, is this the letter of March 2?

Mr. ALTMAN. Yes, sir.

Senator SARBANES. On what basis—let me accept your version of this for the moment, for the purpose of these questions. On what basis would Ms. Hanson go to Nussbaum and advise him of these referrals?

Mr. ALTMAN. I don't know, Senator, but let us keep in mind that if it related to a press leak or a press inquiry, the Office of Government Ethics has said there is nothing inappropriate in it.

Senator SARBANES. Well, now you're the head of the RTC or you were at the time; is that correct?

Mr. ALTMAN. Yes, sir.

Senator SARBANES. What would have been your reaction if RTC employees had gone to the White House to alert them about these referrals?

Mr. ALTMAN. My understanding, Senator, is that the purpose of the meeting or the communication was not to alert the White House in detail about the referrals, but to alert the White House——

Senator SARBANES. Let's strike the words "in detail."

Mr. ALTMAN. As I say, my understanding is that the purpose of the communication was to alert the White House to an impending leak.

Senator SARBANES. If employees of the RTC had done that, Mr. Roelle, the regional person, what would have been your reaction to that? Would that have been an appropriate thing to do?

Mr. ALTMAN. I think if an RTC employee had advised of an impending press leak, that's something I could imagine happening, I could understand happening.

Senator SARBANES. It's your view that it would have been proper for an RTC employee to have gone to Nussbaum to tell him that these criminal referrals had been made to the Justice Department?

Mr. ALTMAN. No, sir, I would not have favored, not have thought sensible a communication for the sole purpose of advising the White House of the status of a criminal referral. No, sir, that's not what I understand happened.

Senator SARBANES. What happened, they were advised because there was going to be a press leak and in the course of hearing about the press leak they learned about the criminal referral.

Mr. ALTMAN. Senator Sarbanes—

Senator SARBANES. Would you have sanctioned or regarded as proper or appropriate conduct for an RTC employee to have gone to Nussbaum and advised him of this matter—

Mr. ALTMAN. Senator—

Senator SARBANES. —particularly without telling you?

Mr. ALTMAN. Senator, I wouldn't have thought it appropriate to advise the White House solely for the purpose of communicating to them information on criminal referrals, no, sir, I would not. That's not my understanding, however, of what happened, although I was not there.

Senator SARBANES. Would you have regarded it—let's accept your version of the purpose of the conversation. Would you have regarded it as appropriate for an RTC employee to have done that without your knowledge?

Mr. ALTMAN. Senator, I can imagine that the RTC Public Affairs Office, for instance, would have contacted White House Public Affairs to alert them of an impending story.

The CHAIRMAN. Senator Sarbanes, could I interrupt based on time to try to extend your time.

Senator D'Amato has made a suggestion and I advise all Committee Members we've been going with 7-minute segments. Senator D'Amato has recommended to me that as of now we shift to 10-minute periods so we don't have as many break-ups in the questioning, and therefore, if that's agreeable, we'll do that now and I'll extend Senator Sarbanes by the 3 additional minutes and then from this point on, we'll go in 10-minute segments.

Senator MOSELEY-BRAUN. Mr. Chairman, I agree with that and I wonder then if you'll be sharp with the gavel?

The CHAIRMAN. I've been trying to be without being rude to people, so we'll go in that fashion, and Senator Sarbanes is to be recognized for 3 additional minutes. We'll now have 10-minute questioning periods from this point on.

Senator SARBANES. You think it would have been proper or appropriate for the Public Affairs Officer of the RTC to bring to the



White House's attention for the first time that these criminal referrals have been made to the Justice Department?

Mr. ALTMAN. Senator, that's not my understanding of what happened. Again, I wasn't there. My understanding of what happened, and I understand this has been confirmed in the depositions, for instance, which the Office of Government Ethics took, the purpose of the communication was to alert the White House of an impending press leak. We also know—

Senator SARBANES. But in the course of alerting them, you can't divorce, even if I accept that the purpose was alerting them of the press leak, the fact that that alert brought to their attention the criminal referrals?

Mr. ALTMAN. Senator, we have the report of the Office of Government Ethics, as you know. Very thorough report, it's an independent agency. It's not part of the Clinton Administration and it concluded that those contacts were appropriate.

Senator SARBANES. Mr. Altman, it's possible not to do something illegal, not to do something unethical, and yet to do something that reflects very bad judgment, is it not?

Mr. ALTMAN. Yes, it is Senator, and a number of people have said, Mr. Cutler, Secretary Bentsen, that in hindsight it would have been better had those contacts not occurred.

Senator SARBANES. On what basis was Ms. Hanson involved in these RTC matters in any event? I mean you were wearing two hats, you were Deputy Secretary of the Treasury and the CEO of the RTC. Now on what basis was she brought into these matters?

Mr. ALTMAN. Senator, I was relying on a number of Treasury staff as my predecessor, Mr. Robson, did to help me with RTC matters. I was able to give very little time to the RTC. Two senior staff meetings a week lasted about 1½ hours each, and I needed help. I asked a number of Treasury staff, Frank Newman, Under Secretary for Domestic Finance, Mike Levy, Assistant Secretary for Legislative Affairs, and others including Jean Hanson to help me out.

Senator SARBANES. Ms. Hanson says she would not have gone on her own to Nussbaum to tell him about these criminal referrals, that that is something she would not have done of her own volition, and she did it, therefore, at your behest. What's your response to that?

Mr. ALTMAN. I don't recollect that, Senator, I don't think I would have tasked Ms. Hanson to do that.

Senator SARBANES. Let's strike the word "tasked." Maybe that's—I mean I'm listening very carefully to your answer.

Mr. ALTMAN. That's her word.

Senator SARBANES. I understand that. Let's try some other words. Did you do anything or make any indication to Ms. Hanson that she should bring this information to the attention of the White House?

Mr. ALTMAN. Senator, I don't believe that I did. I can't say, of course, what she may have inferred. I don't believe that I did.

Senator SARBANES. What did you do on the basis of which she might have inferred, I think that's the word you just used, that she might have inferred that she should go to Nussbaum with this information?

Mr. ALTMAN. I don't believe I did anything, Senator. All I'm saying is that she could have perhaps misunderstood.

Senator SARBANES. What would she have misunderstood?

Mr. ALTMAN. Senator, my response is that I don't recall tasking her to do it, I think I would have remembered if I had done it. I have a lot of respect for Jean Hanson, we're friends and we're colleagues and I hope we're going to remain so. I'm simply saying that she may have misunderstood.

Senator SARBANES. Well, I'm trying to——

Mr. ALTMAN. For example, Senator, I saw a transcript of a deposition she gave. And if I have it right, she was asked whether I instructed her to go to the White House. She said, I can't recall. It was my sense that he may have wanted me to. Then she was asked a second time, did he or did he not instruct you to go to the White House and as I recall the deposition, doing my best to recall it, she said, I can't recall, it was my impression. So she hasn't said, at least in those responses, he asked me to go. She's saying I can't recall.

The CHAIRMAN. We've got to stop there in the interest of time. I know you are right in the middle of this and I think it's very important and I trust that there will be an opportunity to finish that line of questioning to your satisfaction, Senator Sarbanes.

Let me now call on Senator Gramm.

Senator GRAMM. Could I ask a very quick question?

How did you see her deposition?

Mr. ALTMAN. I believe—and I may want to double-check this, Senator—but I believe we were permitted to——

Senator GRAMM. Ours are confidential.

Mr. ALTMAN. I didn't see yours.

Senator GRAMM. How did you see hers?

Mr. ALTMAN. I have seen the Inspector General's depositions which have been made public now. I believe I'm correct on that. I want to reserve that that's the best of my belief.

Senator GRAMM. I may come back to that. But I want to go back and try to nail down this whole question of the veracity of your statement before this Committee, because I think when you get down to the bottom line, that's the major reason you're here. It's going to take me a minute, but I want to go through it because what is happening in going back and forth, part of our 5-minute rule, unless we look at all this together we lose continuity, so I want to read you several questions, your answers, and then refer to the facts as we now know them.

On February 24, as we all know, you were asked before this Committee by me:

Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives, including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

I then asked, as a follow-up to that:

I would like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

You said two things in response to that. You said, "I have had one substantive contact."

Now I think, in his diary, your Chief of Staff was referring to that when he talks about your graceful duck of the question. You

said, "I've had one substantive contact," and that the sole purpose of that contact was to talk about the statute of limitations. It was the whole conversation, you said. It was the sole purpose.

Then Senator Domenici asked you a question, and you go back to what Mr. Steiner calls in his diary, I think, this "graceful duck." You say, "one substantive or meaningful contact," and then Senator Domenici says, "well, I assume we're not arguing there that you had—you are not suggesting that you had more than one, are you?"

Obviously, more than one "contact." You then, Mr. Altman, say, "no." You say, "No. I am just saying that if you run into someone in the hall, if you see that thing in the paper this morning, I'm not including that." Now that's what you said. And Mr. Domenici's question broke through this graceful duck. You said, "No. I've had only one contact."

We now know—and, in fact, the question was about your staff and you. We now know that there were over 40 contacts that we have verified. We now know that you made four of those contacts personally. We now know that the sole subject matter was not the issue of statute of limitations. In fact we know, and I have reason to believe as I'll raise in another question, that the real objective of the meeting was the whole recusal issue. But we know it was at the very least a major subject discussed, and we have that now from 5 or 6 sources.

Here is my question: You were asked point blank—first of all, you were asked a question which you didn't answer. You changed the question. The graceful dodge. You were asked in detail what happened. Then, when it became Senator Domenici's turn, he posed the question point blank, "you are not saying that there has been more than one contact," and you say "no." We now know there were 40 contacts. We now know 4, at least 4 of them, you were engaged in yourself, and we know that other subject matter was discussed. Now how do you reconcile that?

Mr. ALTMAN. Senator, as I said in my statement, I had one substantive contact on the case, and I used the term "substantive" as to relate to the RTC investigation of Madison, and that I believe was true then and that I believe is true today.

Senator GRAMM. It wasn't the question then and it isn't the question now. The question then and the question now was contacts, and, in fact, Senator Domenici noted that you keep saying, "substantive." "You're not saying you had more than one contact are you, Mr. Altman," and you say, "no."

Mr. ALTMAN. Senator, my response to Senator Domenici, I believe, clearly indicates that there may have been other contacts, clearly indicates that.

Senator GRAMM. How does it indicate it, you say, "no"?

Mr. ALTMAN. Because I say I'm not counting these other contacts.

Senator GRAMM. And these other contacts were passing somebody in the hall. Let me ask you a question. February 2 was the one contact you disclosed to us. The day after this one contact you had, this one substantive contact you had, was February 3. You go to the White House. Ms. Hanson is out having lunch with somebody, and you beep her and tell her to hurry down to the White House. She gets up, leaves her dessert, and scurries down to the White House. She gets there, you're done, but Mr. Ickes is there,

and he says to Ms. Hanson, how many people have you told about Altman thinking about recusing himself, and he in essence—and then he says to her it's a good thing—let me be sure I have the language right. Ickes says to Hanson, how many people know that she recommended you recuse yourself and refers to the fact that it's good there were only a few of them.

Now you were at that meeting. You pull her out of her lunch to come there. They say to her it's a good thing that she's told only a few people that you're thinking about recusing yourself. This happened the next day and you say this is not substantive?

Mr. ALTMAN. Senator, when I used the word "substantive" I meant in relation to the RTC investigation of Madison. So you may disagree—

Senator GRAMM. Let me just stop you right there. Is not the recusal related to the fact that you are a friend of the President of the United States and that these referrals refer to him, isn't that what the recusal is all about?

Mr. ALTMAN. Senator, recusal had nothing to do whatsoever with the RTC investigation of Madison. Whether I recused myself or I did not recuse myself would have no bearing on that.

Senator GRAMM. Why would you recuse yourself if it weren't for conflict of interest? Why else would you do it? Is it not that the whole discussion about recusal came originally from the Congress back in January, wasn't that whole discussion about the fact that you are an FOB, Friend of Bill? As we get further into this I'm going to go back and discuss what they were saying at the White House about who were they going to be left with if you recused yourself, that this is a tough prosecutor. Was that not a substantive meeting? Not that it matters, because you made up your own question.

But the point is, not only didn't you answer my question, not only didn't you tell the truth, you didn't tell the truth on the question you made up, because the February 3 meeting was a substantive meeting, was it not, Mr. Altman?

Mr. ALTMAN. Senator, I told the truth. I testified truthfully before this Committee. Members of this Committee, some of them at least, have known me for quite a few years. I might have made mistakes and I may have done things wrong, but I've never come before the Congress and not done my very best to answer forthrightly and honestly and I did that that day.

Senator GRAMM. Mr. Altman, may I go back. I didn't know you, and I asked you this question, and you said—you made up a question, you didn't answer my question. And then Senator Domenici followed up and asked you the gate closing question, and you said one meeting, and we now know there were 40, or 40 contacts.

But I'm asking you now about February 3, using your definition. You pull the Treasury General Counsel out of a lunch. She runs down to the White House to have the meeting, and she's told that it's a good thing only a few people know that she recommended you recuse yourself. What was that meeting about?

Mr. ALTMAN. Senator, when I answered your question I did my best to answer it. I thought what the Committee was interested in was whether we had imparted, improperly, information to the White House on the RTC investigation of Madison and that's how

I answered the question. The meeting you referred to had nothing to do with the RTC investigation of Madison.

Senator GRAMM. I asked you, my question was, have you or any member of your staff had contact with the White House concerning Whitewater or Madison? Why were you debating recusal? Because in the Congress there was pressure that you do it because of your contacts with the President; is that not right?

Mr. ALTMAN. I'm not sure what the question is, Senator.

Senator GRAMM. The question is, why all this 22 days of agony, according to your Chief of Staff in his diary, why all this agony about recusal? It seems to me the obvious answer is the conflict of interest between you being a close friend of the President's and you overseeing a criminal investigation which had referred to him.

Mr. ALTMAN. First of all, Senator, I had no role of any kind in this investigation or any other investigation. I had no such role at any time that I was at the RTC. No role whatsoever in any investigation. I believe Mr. Roelle and Mr. Ryan or others confirmed that in testimony before you. That's first.

Senator GRAMM. You were not head of the RTC?

Mr. ALTMAN. Senator, I had no role at any time in any investigation, and I believe they confirmed that.

Senator GRAMM. Why were you considering recusing yourself?

Mr. ALTMAN. I think I did the right thing on recusal.

Senator GRAMM. I agree—you should have done it 22 days sooner, but the point is why did you do it?

Senator MOSELEY-BRAUN. Mr. Chairman, the time is up. We've got to move.

The CHAIRMAN. I understand, but we've gone now to the 10-minute time periods and that's run. I think rather than have him squeeze a response in there, you're probably better off having a second round and getting at it.

I want to say one thing before I yield to Senator Dodd. You mentioned our speaking, you and I, speaking to me as Chairman after you appeared before the Committee on the date in question.

Mr. ALTMAN. Yes, sir.

The CHAIRMAN. I'm sure you'll recall the fact that I, at the time, offered you an opportunity if you wanted to take it to come back to the Committee in the days immediately following, that I would convene a meeting of the hearing—hearing meeting for the chance for you to go ahead and amplify to whatever extent that you felt you might need to do so. Do you recall that?

Mr. ALTMAN. Yes, sir, and as you know, I was seriously considering it.

The CHAIRMAN. Right. I just want that on the record that we did have that conversation and I did make that offer to you and—

Mr. ALTMAN. You did make that offer and if I recall properly—and you please correct me if I don't—I think that I said to you that I thought it would be a good idea and I'd like to do it.

The CHAIRMAN. And here you are.

Mr. ALTMAN. Yes, sir, here I am.

The CHAIRMAN. All right, Senator Dodd.

Senator DODD. Thank you very much, Mr. Chairman.

First of all, Mr. Altman, let the record reflect, and I think it should, you have served in two Administrations and done so, in my view, with great distinction——

Mr. ALTMAN. Thank you.

Senator DODD. —In the past, and have come back to Government, and as pointed out earlier worked, on some of the testiest issues that have been before this Congress in the last 20 years, the Chrysler issue and New York. Whatever else we may go into here, I think it's important for people who may not know you, for people who have been in Government and have had the opportunity to work with you, my experience is that you've been extremely forthright and an honest public servant and I'd like, at least, from this Senator's perspective to include that in the record.

Mr. ALTMAN. Thank you. May I just say this: I don't know if the Committee agrees with me or not, the reason I wanted the tape to be shown I may not have answered in the best fashion, but I don't think that tape shows someone who's up here trying to conceal information.

Senator DODD. I want to go right to that tape. I think all of us were watching and I thought I had the page right in front of me and now I don't. But if I'm not incorrect, it's during the sequence of Senator Bond's questions to you—is it on page 69, I apologize, yes, here it is—it's during the sequence of Senator Bond's questions to you where Senator Bond says, "nobody in your agency to your knowledge advised the White House staff that this is going to be a major, this could be a major source of concern." Mr. Altman. "Not to my knowledge?"

Then you can hear Senator Bond's voice asking the next question. "Ms. Ford, do you know if the White House was notified by the RTC?" Ms. Ford. "No, we've had no involvement at the Oversight Board whatsoever." It's at that moment at least visually as I looked at it, and my colleagues can correct me if I'm wrong, that you appeared to turn to Ms. Hanson and ask a question or some communication there.

Mr. ALTMAN. I believe I turned to Ms. Hanson and asked her if my answer was correct and I believe she said it was. I think the tape rather clearly——

Senator DODD. She shook her head negatively as I saw it. Could you have framed?

Mr. ALTMAN. I think I answered wrong. If you look precisely at the tape, I said there wasn't any such contact, was there, and she goes no.

Senator DODD. She clearly shook her head no, but that's the juncture and that's the question you were asked at that moment in the tape or words that elicited the negative response as far as any context.

Mr. ALTMAN. Yes, sir.

Senator DODD. The first meeting was on September 29 as I understand it. We now know——

Mr. ALTMAN. Yes, sir.

Senator DODD. —As a result of Ms. Hanson's testimony, that meeting was primarily to discuss the Waco incident at the White House; is that correct?

Mr. ALTMAN. That's my understanding, Senator.

Senator DODD. That it was at the end of that meeting that Ms. Hanson approached Bernie Nussbaum and informed him of the criminal referrals; is that your understanding?

Mr. ALTMAN. That's my understanding, Senator.

Senator DODD. It is your further testimony today that you did not know about that even as late as February 24?

Mr. ALTMAN. Yes, Senator, when I was asked by Senator Bond, I answered truthfully.

Senator DODD. OK. I'm going to introduce into the record and ask Mr. Altman to look at it and that is a memorandum to you from Jean Hanson, subject the Rose Law Firm. While this is being put in front of you, the memo says, Steve Katsanos has talked with Sue Schmit, see attached, and an Early Bird was attached to this thing. The memo goes on further, the second paragraph, "I have spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan." Third paragraph, "I have asked Bill Roelle to keep me informed. Is there anything else you think we should be doing?"

Now, Ms. Hanson yesterday in her testimony before us was unclear as to whether or not she had told you about this meeting. She couldn't remember. But she relied upon this memo that she claimed she did send on the 30th. She didn't recall the memo, excuse me, but believes that as a result of going through her files that this is something she would have sent. I think that was her testimony. Do you recall getting this memo?

Mr. ALTMAN. I don't recall precisely getting it, Senator, but I'm glad you asked because I think there's been a big misunderstanding about this memo. What is this memo attached to? This memo is attached to something called the RTC Early Bird.

Senator DODD. That's correct.

Mr. ALTMAN. What is the RTC Early Bird? The RTC Early Bird is a compendium of stories which the press may be working on. And included here—

Senator BOXER. What did you say?

Mr. ALTMAN. A compendium of stories, Senator Boxer, which the press may be working on. That's what the Early Bird is and that's all it is. And here there is a reference to a possible story on the Rose Law Firm. So Ms. Hanson's cover memo says, in effect, I've spoken with the Secretary and others about a possible story that may be brewing on the Rose Law Firm. That doesn't confirm any meetings in the fall about criminal referrals.

Senator DODD. It does mention in that third bullet, if you read the entire paragraph, it says, "the Rose Law Firm's alleged undisclosed conflicts of interest and integral RTC sources suggests that multiple referrals to the Justice Department link the firm's members, friends, and loans to the insolvent S&L's are being pursued by The Washington Post and the Associated Press."

Mr. ALTMAN. This says The Washington Post and the Associated Press may be pursuing a story on that subject. It doesn't say that I've communicated a detail of criminal referrals to the White House. This is a compendium of stories the press may be working on, that's all this is. That's all the Early Bird has ever been.

Senator DODD. Your testimony today is that you don't have any recollection of this memorandum?

Mr. ALTMAN. I don't have a precise recollection of it, but I have a very clear recollection of the Early Bird and what it is. As I say, this is a list of stories the press may be working on. That's all that it is. The word "Madison" doesn't appear in here.

Senator DODD. Well, "criminal referrals" does.

Mr. ALTMAN. I just think that if someone sends a list of stories the press may be working on, that's a heck of a lot different than saying, gee, this confirms that I advised the White House on the subject of the criminal referrals. I don't see any connection almost at all with them, between the two.

Senator DODD. Well, I understand your interpretation of this, but—and I appreciate that, but I think it's also important to establish for the record that whether or not Ms. Hanson thought this was something other than just a Rose Law Firm story or referring to criminal referrals, your testimony is you don't have any—you don't recall receiving this memo.

Mr. ALTMAN. That's number one, but I also have, as I say, a close familiarity with the Early Bird, and I just don't think that this memorandum confirms what several have suggested that it does confirm, not at all.

Senator DODD. Let me move on because time does flee along here. First of all, yesterday Ms. Kulka was asked on numerous occasions, about whether or not you told her that she would be, in effect, in charge of these matters. I recall her saying that, in fact, occurred. I'm satisfied that was the case.

We're going to have Mr. Ickes before this Committee and I gather that Mr. Ickes has stated that you told him and others in the meeting on February 2 that the statute of limitations was going to present a problem for the RTC and, in fact, communicated that information to the First Family, as I understand it.

So I want to go over the meeting that you had on February 1 with Ms. Kulka. I gather that it was a meeting with Ms. Kulka, yourself, and Jean Hanson to discuss the statute of limitations on February 1; is that correct?

Mr. ALTMAN. I believe so, Senator, yes.

Senator DODD. Did Ellen Kulka tell you that the RTC would have enough information to file claims by the 28th of February even though its investigation may not be entirely completed?

Mr. ALTMAN. I don't recall that. What I recall is Ms. Kulka saying that by the 28th the RTC would make its decision, and I believe that's what the—

Senator DODD. My colleagues, please, I can't hear.

Mr. ALTMAN. I believe what I do recall them saying is that by the 28th the RTC would make its decision, and I believe before this Committee yesterday she did confirm that. The notion that we conveyed the information on February 2 that you referred to is categorically false.

Senator DODD. Do you recall what she did tell you, rather than go through a series of questions here about that. At this point we already had a significant debate going on in the Senate about whether or not to extend the statute of limitations. Our colleague from New York was certainly reminding all of us each day as the calendar went by that we were getting closer.



Was there some implication that because the Senate or the Congress might extend the statute of limitations that it wouldn't pose a problem, or even if we didn't extend the statute, that the problem, would not exist?

Mr. ALTMAN. I recall Ms. Kulka saying that she would make her decision by February 28. I don't recall any discussion about the prospects.

Senator DODD. There was no problem about having an adequate amount of information and the whole question of section 11, the fear of a decision that would impact the RTC's not bringing a case that was backed up by adequate evidence.

Mr. ALTMAN. She said she would make her decision by the 28th, and as you know, the RTC has options to preserve its basis. It can file a claim in court to preserve its basis or it can seek a tolling agreement, but I was never told somehow that there wouldn't be enough time to complete the investigation and that would somehow lead to a lapse of the statute of limitations deadline. I was never told anything at all like that.

Senator DODD. You had some talking points—

Senator SASSER. Mr. Chairman, could Mr. Altman pull that microphone a little closer. I'm having trouble hearing.

The CHAIRMAN. That would be helpful, and also time has run if you'd like to finish that out Senator Dodd.

Senator DODD. I'll ask the Chairman that Mr. Altman be given a copy of this—the final version of the talking points. The final bullet on the final version of the talking points for that meeting does talk about the decision that you'd made to recuse yourself from the decisionmaking process.

I want you to come back and respond to my question, and I think a question Senator Gramm asked, that when a question was asked on February 24, was that the sole purpose—I don't have the record right in front of me, but the language was "sole purpose" of that February 2 meeting. Now I understand your argument earlier of the difference between recusal and Madison, but the question from one of my colleagues on the other side did not reference the Madison or recusal, but asked the sole purpose of the February 2 meeting, and this talking point seems to indicate the recusal is on there. I wonder how you'd respond to that?

Mr. ALTMAN. May I respond now?

The CHAIRMAN. I think you should and then we'll rotate.

Mr. ALTMAN. First of all, when I called Mr. McLarty to set up the meeting, I told him the purpose of the meeting was to discuss the generic procedures that the RTC would be following in connection with that statute of limitations situation, same ones that it would follow on any statute of limitations situation. I didn't mention recusal. My recollection is, and I've testified to this effect, I've testified under oath, and I'm testifying under oath here today, that this final point was added by Ms. Hanson of her own volition out of a perfectly well intentioned sense, which was to prod me to do it. But I didn't instruct that this be added to the talking points. She did it. The purpose of the meeting was not—was the generic procedures discussion.

Senator DODD. Well, there will be more questions about it, but my time has expired.

The CHAIRMAN. I do not think it is fair to leave the inference, however, that the recusal was not discussed at the meeting. It was discussed at the meeting.

Mr. ALTMAN. Yes, sir, it was.

The CHAIRMAN. We'll come back to that.

Senator Bond.

Senator BOND. Thank you, Mr. Chairman.

When I made my opening comments here on Friday, I chose my words very carefully because I wanted to make it clear that truthfulness is the coin of the realm around here and when you come up to testify before this Committee or any Committee of Congress, you have to be truthful. We heard some interesting statements yesterday about why Ms. Hanson felt unable to relay the truth to this Committee after your testimony on February 24, Mr. Altman. First, it related to RTC contacts; second, she couldn't get a transcript of the hearings; and third, her lawyers told her not to do so. We don't have time and I'm not going to revisit those points now, it's just they are very troubling.

I want to remind my colleagues that this hearing is not just about whether Administration officials misled this Committee on February 24 along the lines of the questions my colleagues already discussed. It's about a whole, unusual, highly disturbing set of events that we now describe with the word "Whitewater." Just today, for example, we learned from the newspaper that the night of the tragic suicide, the Whitewater files were taken from Mr. Foster's office by the First Lady's Chief of Staff and taken to the White House residence and not turned over to the Clintons' lawyers, as we've been told, but that they were in the Clintons' residence for 5 days. And it took us 6 months to learn that the Whitewater files were taken from the Foster office, then it took us another 6 months to learn they didn't go straight to the lawyer.

Notwithstanding the protestations to the contrary, it seems to me that an awful lot of people have gone to extraordinary lengths to try to tell us that Whitewater wasn't such a big deal. Extraordinary measures have been taken by high level folks to keep track of Whitewater developments and be involved in Whitewater-related activities. I begin to wonder, and I think my colleagues should, as to why the White House and their top officials have tried so hard.

Mr. Altman, I'd like to go back to your first staff meeting at the RTC. On March 15, 1993, you took over as CEO of the Resolution Trust Corporation; is that correct?

Mr. ALTMAN. I believe that was the date, Senator, yes.

Senator BOND. And our records seem to reflect that it was Tuesday, March 23, you had your first staff meeting at the RTC, the following Tuesday. You had to testify in Congress on Tuesday, March 15, and so you had your first staff meeting on Tuesday, March 23.

Mr. ALTMAN. Perhaps I did. I can't recall the specific date.

Senator BOND. Yesterday, Mr. Roelle testified that at the end of that staff meeting, on March 23, he gave you the first indication that the criminal referrals pertaining to Madison mentioned Bill and Hillary Clinton. Now, this is inconsistent with your written testimony, you said you did not recall it, but from the deposition of Mr. Roelle, he was asked:

**Question:** Did you at any time inform Mr. Altman of the 1992 criminal referral?

**Answer:** I did.

**Question:** When did you do that?

**Answer:** The first day he had a staff meeting. He asked us was there anything that he should know about, anything that was going on that would likely be high visibility, or any kind of a major issue.

**According to Mr. Roelle's deposition:**

I waited until the majority of the people had left and I can't remember who was there beside Mr. Newman and Mr. Altman. There may have been somebody else from the Treasury, but I just can't recall and I told him at that time that there had been a criminal referral mentioning the Clintons that had been referred to the Justice Department.

Now having those additional specifics, does that give you any additional recollection of that March 1993 meeting and what went on?

**Mr. ALTMAN.** No, sir, it doesn't. I think I've testified under oath now 5 or 6 times in connection with this whole matter and each time I have said the first time I recollect learning of this was last fall when Mr. Roelle or Ms. Hanson or both told me. I don't have any recollection of that March 1993 meeting. Of course, that occurred about a year before the testimony here on February 24, but I don't recall it. Let me also say no one has suggested, I don't believe, that I did anything with the information if I had it, but my answer was——

**Senator BOND.** Mr. Altman, I'm limited on time and if I were going to ask that question, I would have asked it. I'm asking for another purpose. The evening of March 23 at 9:04 p.m., there was an article that came from your office. It was faxed to Bernie Nussbaum from Roger Altman. Is this your handwriting, did you fax that yourself at 9:04 p.m.?

**Mr. ALTMAN.** May I see the document?

**Senator D'AMATO.** What day is that, I'm sorry?

**Senator BOND.** March 23 at 9:04 p.m.

**Senator D'AMATO.** P.M.?

**Senator BOND.** P.M. 9:04 p.m.

**Mr. ALTMAN.** That's not my handwriting.

**Senator BOND.** That was faxed from your office, that's your fax number?

**Mr. ALTMAN.** That's my fax number.

**Senator BOND.** We had another copy of that fax that was given to us, turned over and it had the time redacted, but we got the extra copy that showed the time was 9:04 p.m. Then there was a second fax. It was refaxed to Bernie Nussbaum at 8:58 a.m. the next morning. Thus the articles were faxed twice, one at 9:04 p.m. Tuesday night and one at 8:58 a.m. Wednesday morning to Bernie Nussbaum with the clipping from The New York Times from March 9, 1992, "Clinton Defends Real Estate Deal." Says he lost at least \$25,000 and did nothing improper.

Now, twice that was faxed within 12 hours, on the evening of March 23 and the following morning. It seems to me, more than curious that there had not been something to trigger this flurry of faxes to Bernie Nussbaum about Whitewater. It showed that there was a very real sensitivity and concern about Whitewater from something that had happened that day.

**Mr. ALTMAN.** May I respond to that, Senator?

**Senator BOND.** I didn't ask a question, but I'd be happy to have you make a brief comment.

Mr. ALTMAN. I don't see anything wrong with faxing a press article at any time to anyone.

Senator BOND. I didn't ask you that. Is it still your testimony that you don't recall having someone search for these articles about Whitewater, you don't remember anything about it, this wasn't your idea, somehow the fax machine just spit out the Whitewater article and sent it to—

Mr. ALTMAN. That's not my position, Senator. I may well have faxed this to Mr. Nussbaum.

Senator BOND. Once in the evening and once in the morning.

Mr. ALTMAN. I doubt I would have faxed it twice, but this is a press clipping, this is a press article. For the life of me, I can't understand why someone would think faxing a press article to anybody at any time would be wrong.

Senator BOND. Let me just go back to the point I was making. Mr. Roelle said he told you on March 23 about the criminal referrals. What you did that evening at 9:04 p.m., an unusual time to be faxing, and again at 8:58 a.m. the next morning, was to fax two different copies of the same article to Mr. Nussbaum reflecting Whitewater concerns of the President. The article dealt with President Clinton's problems. That is corroborating evidence that Mr. Roelle—

Mr. ALTMAN. No, sir, it isn't.

Senator BOND. I didn't ask you for that judgment, Mr. Altman. I'm just saying that for those of us who are trying to determine whether Mr. Roelle is correct in saying he told you about it, these two activities are very consistent with you having been notified by Mr. Roelle.

Now, yesterday, Mr. Roelle testified that on or about September 23, he was notified of a second set of Madison criminal referrals which named the Clintons. Could you please tell us what Mr. Roelle told you?

Mr. ALTMAN. I'd like to go back for a moment, Senator, and just address briefly the other question you raised.

Senator BOND. I didn't ask a question. We're running out of time, Mr. Altman.

Mr. ALTMAN. I'd just like an opportunity to respond to what you said. Mr. Nussbaum testified before the House under oath and I believe that Mr. Cutler's chronology also goes into this. Mr. Nussbaum, I'm quite sure, testified that he received no information on the criminal referrals from me in March, and I want to stress that. Now, as to this last question—

Senator BOND. Let me follow up. He did receive from you two faxes relating to the Clinton Whitewater deal.

OK, your answer to my question.

Mr. ALTMAN. Well, I thought the question implied that, if Mr. Roelle had said to me in March, information about the criminal referrals, and then, if I had sent the faxes, that somehow I would have imparted improper information which I did not—

Senator BOND. I did not say that, Mr. Altman. Would you go back to the question. Do you remember what Mr. Roelle told you on September 23?

Mr. ALTMAN. As I testified here before this Committee on February 24, I thought I testified rather clearly, in the fall Mr. Roelle

or Ms. Hanson or both advised me that a criminal referral was working its way through the system. They did not tell me what the prospects for making the referral were, in other words, whether it would likely be made or not be made. Nothing was told to me on that.

Senator BOND. But you did. I asked you if he told you and you said he did. I believe that was the short answer. Now, yesterday Ms. Hanson testified that you specifically told her to tell Mr. Nussbaum about these referrals. Can you tell us what you recall you told Ms. Hanson?

Mr. ALTMAN. As I said a few moments ago, Senator, I don't recall that and I don't believe I would have asked her to do that.

Senator BOND. Mr. Chairman, the time is up. We have it very clearly in the deposition and in the testimony of Ms. Hanson. Thank you.

The CHAIRMAN. Thank you, Senator Bond.

Senator Sasser, you wish to be recognized?

Senator SASSER. Yes, Mr. Chairman, I do.

The CHAIRMAN. Senator Sasser.

Senator SASSER. Thank you, Mr. Chairman.

Mr. Altman, it's clear that there is a discrepancy between your testimony and that of Ms. Hanson, and you testified that you did not request Ms. Hanson to initiate a September 1993 discussion with the White House regarding the referrals that were coming up from the Kansas City office.

Did you request Ms. Hanson to have any other discussions with anyone else on the subject of the referrals that were coming from the Kansas City office of the RTC?

Mr. ALTMAN. Senator, I don't recall suggesting Ms. Hanson advise anyone.

Senator SASSER. Well, following up—but you say you don't recall asking her to advise anyone of the referrals coming up?

Mr. ALTMAN. I don't believe that I did.

Senator SASSER. Pardon?

Mr. ALTMAN. I don't believe that I did.

Senator SASSER. Did you ask her to consult or discuss with anyone these referrals that were coming up?

Mr. ALTMAN. I don't recall doing so, Senator, no.

Senator SASSER. Mr. Altman, let me follow up somewhat on the line of questioning that was initiated by Senator Sarbanes. You indicated in response to Senator Sarbanes's questions that you did not instruct or task Ms. Hanson to go to the White House and discuss the question of the referrals with Mr. Nussbaum or anyone else, but you did indicate that she might have inferred that she should have done so.

Could she have inferred that she should have done so from something you might have said and if so, what could that have been?

Mr. ALTMAN. Senator, I don't recall saying anything which could conceivably constitute a tasking. I don't recall that. I don't recall suggesting that Ms. Hanson brief the White House on this. I have a lot of respect for her. She's a professional. People can misunderstand each other. I think I referred to her deposition, the one I saw where she said "I can't recall" a couple of times, but I do not believe that I tasked her to do that. No, sir.

Senator SASSER. Did Ms. Hanson make it a habit of going over to the White House, to your knowledge?

Mr. ALTMAN. Senator, as you know, she went to the White House that day, not in regard to Madison, but in connection with a meeting that was being held on the Waco report which had to do with the Davidians and the Waco, Texas tragedy.

Senator SASSER. So the reason for her going to the White House on that particular day had nothing to do with Madison, to your knowledge?

Mr. ALTMAN. My understanding is that was not the purpose of her visit, no. She was attending the White House in connection with a meeting on Waco and my understanding is that she and Mr. Nussbaum had an aside for a couple of minutes at the end of that meeting.

Senator SASSER. Let me take you, Mr. Altman, to Mr. Steiner's diary. Now, Mr. Steiner's diary seems to suggest, and I quote it, you "gracefully ducked"—those are his words—"a question regarding telephone contacts with the White House about Madison." In your prepared testimony, you deal with meetings and the recusal issue, but you don't touch on phone contacts.

Now, what is your response to the notion that you intentionally left out telephone contacts?

Mr. ALTMAN. Senator Sasser, I testified to the best of my ability on February 24, and I testified truthfully.

The CHAIRMAN. Can you speak just a little bit louder.

Mr. ALTMAN. I testified to the best of my ability on February 24, and I testified truthfully. I don't know what Mr. Steiner meant by that, but as you know, I amended the record to include four contacts, which I believe were incidental, which had nothing to do with the RTC investigation of Madison. And in my response to Senator Domenici, I believe, I indicated that there may have been other contacts, and I think the effect of my words was they were incidental, but the contacts that I subsequently described in amending the record had nothing to do with the RTC investigation of Madison.

For example, the night before my testimony, I advised Mr. Ickes that I was going to announce that I was stepping down as RTC Chairman on March 30. That has nothing to do with the RTC investigation of Madison. I ran into Mr. Nussbaum in a corridor, and he advised me that the Administration would shortly have its nomination coming forward to this Committee for purposes of the permanent RTC Chairmanship. That has nothing to do with the RTC investigation of Madison.

I supplemented the record in an effort to bend over backward to provide to Senator Riegle and the Committee information which I thought the Committee might want to have, but I testified to one substantive contact about the RTC investigation of Madison, and I believe that's true.

Senator SASSER. Now, let me ask you about another matter of some relevance here. You've been asked about many matters that, frankly, I don't think have much relevance, to be perfectly candid about it, but I want to ask you about a matter that perhaps does have some relevance.

In the February 2 meeting at the White House in Mack McLarty's office—I believe the meeting took place there—you telephoned Mr. McLarty to set up the meeting, did you not?

Mr. ALTMAN. Yes, sir.

Senator SASSER. But Mr. McLarty was not present there. The meeting was simply held in his office.

Mr. ALTMAN. No, sir, he was not present. I believe the meeting was held in his office.

Senator SASSER. And among the participants there was Mr. Nussbaum and also Harold Ickes.

Mr. ALTMAN. Yes, sir.

Senator SASSER. Now, did you inform the participants at this February 2 meeting to the—or did you tell them with regard to Madison that it was “unlikely the investigation could be completed and a recommendation made by the General Counsel prior to the expiration of the statute of limitations,” which would have occurred on February 28?

Mr. ALTMAN. No, sir, I did not. I am sure that I did not.

Senator SASSER. Well, did you say anything of that sort or anything similar to it?

Mr. ALTMAN. I have here a copy of the talking points for the meeting, which Senator Riegle earlier provided to me, and it reads as follows: “It is not certain when the analysis will be completed, but it will be before February 28.” I think that explicitly refutes this notion that we somehow provided them some improper information about inability to complete the investigation. It will be completed before February 28.

Senator SASSER. Let me ask you this: The statute of limitations had been extended before on at least one occasion. Did you anticipate the statute of limitations would be extended once again beyond February 28?

Mr. ALTMAN. I did not anticipate that on February 2, Senator, no.

Senator SASSER. Mr. Steiner said—I think Mr. Steiner said he anticipated it would be extended once again, as the President ultimately did extend it, but you did not believe that to be the case on February 2.

Mr. ALTMAN. No, sir, on February 2, I don't believe I was aware of the prospects for extending the statute. My recollection is that the Congress dealt with that very quickly. I only recall becoming aware of that a day or two before the Congress actually passed it.

Senator SASSER. Why in the world, Mr. Altman, would Harold Ickes make the statement that you allegedly said, and I quote, “it's unlikely that the investigation could be completed and a recommendation made by the General Counsel prior to the expiration of the statute of limitations”? Where could Harold Ickes have gotten that?

Mr. ALTMAN. Senator Sasser, I did not say that and let me remind you of the evidence that supports.

Senator SASSER. I am not accusing you of it.

Mr. ALTMAN. I know. I want to remind you of the evidence that supports that I did not say that. I just talked about the talking points. The Office of Government Ethics Report, taking testimony under oath from every one of the participants, found that no

nonpublic information was disclosed in that meeting. Mr. Cutler's report and the highly detailed chronology, no such information was given on February 2. Ellen Kulka made perfectly clear that no matter what, she and the RTC would be ready to make a decision by February 28. As I said, you can ask Mr. Ickes yourself when he appears before you. I believe that he did not intend to say that I told the White House the investigation could not be concluded. And as you know, Ms. Kulka testified yesterday that that was inaccurate.

Senator SASSER. So all of the participants in that meeting, Bernie Nussbaum; yourself, Maggie Williams, who else was in there? Was Ms. Hanson in the meeting?

Mr. ALTMAN. Yes, sir.

Senator SASSER. Ms. Hanson. Who else other than—

Mr. ALTMAN. Mr. Nussbaum's Deputy, Mr. Eggleston.

Senator SASSER. And Harold Ickes. Harold Ickes is the only one of the whole group that suggests that you indicated it would be unlikely that the investigation could be completed and the civil suit brought before the expiration of the statute of limitations?

Mr. ALTMAN. That is categorically false.

Senator SASSER. No, no. I said he's the only who said that.

Mr. ALTMAN. I'm sorry. Apparently. I've not seen a copy of his deposition.

Senator SASSER. Right. Did Ms. Kulka indicate to you that she would not be able to file a case by February 28, 1994, to your knowledge?

Mr. ALTMAN. No, sir. I believe Ms. Kulka, herself, testified the same way before this Committee.

Senator SASSER. Affirmatively that she could file the case by February 28?

Mr. ALTMAN. Yes, sir.

Senator SASSER. So if that's the case of the whole discussion about whether or not the statute of limitations was discussed, there really is not a matter of great relevance, is it? It would appear to me that's the case.

Mr. ALTMAN. We did not provide any nonpublic information.

Senator SASSER. My time has expired. Thank you, Mr. Altman.

The CHAIRMAN. Thank you, Senator Sasser.

Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

Mr. Altman, you said in your deposition that you had no knowledge of the Madison Guaranty case. You said, and I quote, "I knew nothing about the case whatsoever, nothing about the facts, the merits, the outlook, or anything else about the case." You also said, and again I quote, "I was never given any information about the facts of the case, or the outlook for the case, or the status of the case." Now, that came from page 275 and 399 of your deposition. Is that what you said?

Mr. ALTMAN. Yes, Senator, I believe I was specifically referring to the civil side.

Senator FAIRCLOTH. Mr. Altman, yesterday Mr. Roelle of the RTC testified here under oath that he told you in January 1993 about a criminal referral in the Madison Guaranty case that named the Clintons. In your deposition, you said you knew nothing about



the case whatsoever. Isn't information about the criminal referral something?

Mr. ALTMAN. Senator, I believe my response—I'd have to check the transcript—related to the civil case which was the only case remaining at the RTC in 1994 or the months preceding our February 2 meeting.

Senator FAIRCLOTH. You mean that you knew about the criminal, but that doesn't amount to having any knowledge, just the civil.

Mr. ALTMAN. My position is I knew almost nothing about the criminal as well, but I believe the answer you're quoting from had to do with what I knew about the case on February 2, which had to be the civil case.

Senator FAIRCLOTH. Mr. Roelle said he told you about the criminal referral. All right. Yesterday, Ellen Kulka testified under oath that she had briefed you on the statute of limitations for civil action in the Madison Guaranty case. Now, she testified here yesterday that she had briefed you on the civil action.

Mr. ALTMAN. Senator, she briefed me on the generic procedures which the RTC follows on any statute of limitations situation and would follow on Madison. There's no knowledge there about the case.

Senator FAIRCLOTH. In your deposition, you testified you were never given any information on the status of the case. Isn't being briefed on when the statute of limitations will run out on a particular case information on the status of the case?

Mr. ALTMAN. No, sir, it's not.

Senator FAIRCLOTH. Ellen Kulka testified here under oath that you were told that there would be difficulty in developing the Madison Guaranty civil case before the statute of limitations ran out. You said in your deposition that you knew nothing whatsoever about the outlook for the case. Isn't knowing that there would be difficulty in meeting the statute of limitations knowing something about the case?

Mr. ALTMAN. No, sir, that doesn't give me any information about the outlook for the case.

Senator FAIRCLOTH. You testified in your deposition that you had no knowledge of the substance of the Madison Guaranty case. However, Harold Ickes testified that you told him about the inquiry, that the investigation was going to take longer to conclude, and that it might not conclude until after the statute of limitations expired. Ickes testified, and I quote: "The general information from Mr. Altman was based on what he knew." How could you advise Harold Ickes if you knew nothing?

Mr. ALTMAN. I did not so advise him.

Senator FAIRCLOTH. Was he lying?

Mr. ALTMAN. I did not so advise him, Senator.

Senator FAIRCLOTH. Are you saying that Harold Ickes was lying in his testimony?

Mr. ALTMAN. I did not so advise him.

Senator FAIRCLOTH. You said in your deposition that you were never involved with any case.

Mr. ALTMAN. I said I was never involved in decisions on any case.

Senator FAIRCLOTH. Jean Hanson testified that you instructed her to try to get Ellen Kulka, the RTC lawyer, to brief President Clinton's private lawyer, Dave Kendall, on the Madison case. If you had never got involved, why would you be asking anybody to brief anybody about anything on the case?

Mr. ALTMAN. Senator, at the conclusion of the substantive part of the February 2 meeting, I was asked whether the same procedural information on the generic alternatives facing the RTC would be provided to the private attorneys. I'm not a lawyer. I think I said I guess so. We returned to the Treasury. Jean Hanson checked with Ms. Kulka. Ms. Kulka said something to the affected of not now or in due course. I said fine. That's what happened.

Senator FAIRCLOTH. Again, you testified you were never involved in any case whatsoever. On Madison, specifically, you testified you knew nothing of the case whatsoever. In other words, nobody told you anything about the case. Jean Hanson testified here that you had an understanding about this type of information. She said it is standard practice to notify you if there will be issues involving Congressmen, Senators, people of national prominence, or an issue of national attention. How can you be notified if no one tells you anything?

Mr. ALTMAN. Senator, my policy in that regard related to press. I simply requested that before the RTC released any action which could have major press potential or leak potential, that I be advised after the decision was reached, not before, not to have any role in the decision. I wanted to know simply so that I'd be prepared for whatever inquiries could ensue. And I think if one checked, although I haven't, if one checked with like agencies, one would find they had similar policies on press.

Senator FAIRCLOTH. Mr. Altman, you did not recuse yourself until after Robert Fiske was brought in on the case by Janet Reno. At the March 2 White House meeting, Bernard Nussbaum wanted to know if there was any way to take the RTC civil case away from Ellen Kulka, who he thought was too tough, and give them to Robert Fiske. Jean Hanson testified that she didn't get an ethics opinion about telling Robert Nussbaum about the criminal referral because it assisted in achieving a governmental purpose.

How does meeting with Nussbaum, who then tried to get the civil case out of the hands of a lawyer that he thought was too tough and into the hands of Robert Fiske serve a governmental purpose?

Mr. ALTMAN. Senator Faircloth, I don't believe there was any discussion on February 2 about moving the case to Mr. Fiske. I don't believe there was any such discussion.

Senator FAIRCLOTH. Mr. Altman, did you ever walk on water?

Mr. ALTMAN. No, sir.

Senator FAIRCLOTH. I yield my time to Senator D'Amato.

Senator D'AMATO. Mr. Chairman, are you ready?

Senator BENNETT. I'm ready, but I want my full 10 minutes.

Senator D'AMATO. I'll start with Mr. Bennett and give him the time.

Senator SHELBY. If the Senator would yield to me, I'd take it.

Senator D'AMATO. I'll yield to the Senator.

Senator BENNETT. I think that's the proper order.

Senator D'AMATO. Go ahead.

The CHAIRMAN. Senator Shelby, there is little time left but they're yielding, so you go ahead.

Senator SHELBY. I'll try to save it for them. I just want my time. Thank you, Mr. Chairman.

Mr. Altman, you've been prepared on various occasions during your career to testify before various Committees in the House and perhaps the Senate, have you not?

Mr. ALTMAN. Yes, sir, many times.

Senator SHELBY. And some of it started back when you were in the Carter Administration; is that—

Mr. ALTMAN. Yes, sir.

Senator SHELBY. Would you characterize an appearance before the Senate Banking Committee acting in its oversight capacity on RTC, et cetera, as a serious undertaking?

Mr. ALTMAN. Yes, sir, I would.

Senator SHELBY. Did you not prepare for this oversight hearing in February?

Mr. ALTMAN. Yes, sir, I did.

Senator SHELBY. Who worked with you? I know a number of your staff, but besides Ms. Hanson.

Mr. ALTMAN. Who attended?

Senator SHELBY. Yes, who helped prepare you? We have staff who help prepare us sometimes and I understand that.

Mr. ALTMAN. There were about 10 or 15 members in RTC Treasury staff who worked with me on the preparation of the testimony on the Q's and A's before February 24.

Senator SHELBY. Do you, in this preparation, go over with different staffers questions that might be—that you might anticipate that some of us here on the Banking Committee might ask you—

Mr. ALTMAN. Yes, sir.

Senator SHELBY. —Pertaining to RTC or something related directly or indirectly to it?

Mr. ALTMAN. Yes, sir.

Senator SHELBY. How much time did you spend in your best judgment, if you recall anything, on preparation for that February hearing?

Mr. ALTMAN. Ten or 12 hours.

Senator SHELBY. Now, did you think you were fairly well prepared when you came before the Banking Committee?

Mr. ALTMAN. One is never as prepared as one would like to be but reasonably so.

Senator SHELBY. Mr. Altman, you're a graduate of Georgetown University undergraduate and MBA from the University of Chicago; is that right?

Mr. ALTMAN. Yes, sir.

Senator SHELBY. Two good schools. You're an investment banker by profession, or were?

Mr. ALTMAN. Yes, sir.

Senator SHELBY. You were a partner with one or two of the large investment houses that deal with investment banking in the United States—

Mr. ALTMAN. Yes, sir.

Senator SHELBY. —and in the world. Do you believe that when someone asks you a straight question, that you should give them a straight answer? Or should you try to dodge it or duck it?

Mr. ALTMAN. Senator, throughout the career that I've been privileged to have, both public and private, I have always tried to answer forthrightly. I think if you went out and checked with people who know me, they might say various things about me and my failings but they would not say that I was not a forthright person.

Senator SHELBY. We've been checking and this is part of the hearing today. A lot of us are concerned about some of your answers to some questions. Were you trying to avoid the question? Were you hoping that the precise question was not asked, was not asked where you could not squeeze out of it in some way, or duck it in some way, or evade it in some way?

Mr. ALTMAN. No, Senator, I wasn't.

Senator SHELBY. Was that part of your preparation for the hearing?

Mr. ALTMAN. Senator, I prepared for those hearings the way I've always tried to prepare which was to put myself in a position to know as much as I can about the subject and answer the questions as forthrightly as I can.

Senator SHELBY. Do you know Mr. Josh Steiner?

Mr. ALTMAN. Sure.

Senator SHELBY. Do you work with him?

Mr. ALTMAN. Yes, sir.

Senator SHELBY. Do you work closely with him?

Mr. ALTMAN. Less so these days because he's Chief of Staff, but he was my special assistant through last fall, and we worked very closely.

Senator SHELBY. Worked with him every day, did you not, for a while?

Mr. ALTMAN. At that period, yes, not now.

Senator SHELBY. You're familiar with his diaries and I'm sure you've read them, have you not?

Mr. ALTMAN. I've never been given a full copy of the diary, no. I've just have the page——

The CHAIRMAN. That's all we have, too.

Senator SHELBY. Talking about recusal, which you don't think is important, but a lot of us do think that it is important and the method——

Mr. ALTMAN. Senator, I didn't say it was important.

Senator SHELBY. What did you say about it?

Mr. ALTMAN. I said it had nothing to do with the RTC investigation of Madison Guaranty.

Senator SHELBY. You said it didn't matter?

Mr. ALTMAN. I said it had nothing to do with the RTC investigation of Madison Guaranty.

Senator SHELBY. Not whether it didn't matter, it was immaterial to the investigation?

Mr. ALTMAN. It would have had no bearing under any circumstances on the RTC investigation of Madison.

Senator SHELBY. I want to read you something from the record and it may have already been touched on, but from Josh Steiner's diary and this has to do with your meeting at the White House.

"At a fateful White House meeting with Nussbaum, Ickes, and Williams, however, the White House staff told Roger Altman that it was unacceptable"—that is your recusal. "Roger Altman had gone to brief them on the impending statute of limitations deadline and also to tell them of his recusal decision. They reacted"—they reacted "very negatively to the recusal and Roger Altman backed down the next day and agreed to a de facto recusal where the RTC would handle this case like any other, and Roger Altman would have no involvement." OK.

Why, assuming he had no reason to lie on his impression and he put this, why did you, Deputy Secretary of Treasury confirmed by the Senate, acting CEO of the Resolution Trust Corporation, if this is correct, why would you let Nussbaum, Ickes, and Williams beat up on you or back you down in any way and cause you not to recuse yourself when it seemed to be imminent? Why, Mr. Altman?

Mr. ALTMAN. Senator, I did not do so.

Senator SHELBY. In other words, this gentleman is wrong and he's lying? Is that what you're saying?

Mr. ALTMAN. Mr. Steiner, as you know, did not attend the meeting. I did attend the meeting.

Senator SHELBY. You told him about the meeting, didn't you?

Mr. ALTMAN. I did attend the meeting.

Senator SHELBY. Did you tell him about your impressions of the meeting?

Mr. ALTMAN. Senator, there's testimony under oath from the other participants—let me be very clear. No one asked me not to recuse myself. No one told me the recusal was unacceptable. No one said to me, please don't do that. So the notion that recusal was unacceptable is false. That was not said to me.

Senator SHELBY. In other words, what he's saying is not true?

Mr. ALTMAN. The reference to unacceptable is not true.

Senator SHELBY. Why didn't you recuse yourself? Because they would have been unhappy at the White House—that is Nussbaum, Ickes, Williams—if you had?

Mr. ALTMAN. Senator, let me describe the recusal decision. I went to the meeting having been advised orally and later advised in writing, that there was no legal or ethical requirement to recuse, that it was a purely personal decision. It wasn't an easy decision to make because I was also aware of the argument that I had a duty to serve. Indeed, the Office of Government Ethics Report released on Sunday, questions my decision of recusal and suggests it may have been the wrong decision because in the absence of a legal or ethical requirement to recuse, there is a requirement that you should serve so it wasn't an easy decision, and I admit being—

Senator SHELBY. It wasn't an easy decision, but it would have been the right decision, wouldn't it?

Mr. ALTMAN. I think, I said in my decision, I should have recused myself right off the bat.

Senator SHELBY. It would have been the right decision. I want to ask you about something else. You know, we have a limited amount of time here. Referring to Josh Steiner's diary again, and I'm quoting it: "Once again, they were concerned about him"—speaking about you—"turning the RTC people, they didn't know. So Roger Altman did not formally commit himself to stepping down."

Turning the RTC, turning someone is changing them some way. In other words, you turn a prisoner. You turn somebody. That is—what's your interpretation of that phrase?

Mr. ALTMAN. Senator, if you look up a little bit, you see—and you quoted this a moment ago—“agreed to a de facto recusal where the RTC would handle this case like any other and RA,” meaning me, “would have no involvement.” That was the understanding that the participants in that meeting had.

Why did they have that understanding? Because I explicitly told them at the meeting. I did the right thing. I said recusal is irrelevant because I won't be playing any role in the decisions on this case. I told them not once but twice, and before that meeting, I told that to Ms. Kulka and she testified that I would have no involvement in the case, and that's my point about recusal. It had nothing to do with the RTC investigation. Whether I executed a formal recusal or remained de facto recused, I wasn't going to play any role in that case whatsoever.

Senator SHELBY. Why did you duck the question Senator Gramm asked you before this same Banking Committee back in February?

Mr. ALTMAN. I did not duck it.

Senator SHELBY. You didn't. Mr. Josh Steiner's diary says, and you're familiar with it, “they had also asked if staff had met but Roger Altman gracefully ducked the question and did not refer to phone calls he had. The next day The New York Times ran a front-page story on the meeting. The heat was on. We spent,” we spent “a tortured day trying to decide if he,” meaning you “should recuse himself.” Was Mr. Steiner working with you at this time?

Mr. ALTMAN. Senator, what happened on February—

Senator SHELBY. Was he working with you at the time?

Mr. ALTMAN. No, he was not in direct line responsibility to me.

Senator SHELBY. You were not around him during this time?

Mr. ALTMAN. No. Let me be clear. Mr. Steiner served as my special assistant through the fall of 1993, I believe September, but I'm not certain. At that time he was promoted and he became—I might say he's privileged to be Secretary Bentsen's Chief of Staff. So at the time of these discussions, he was Chief of Staff of the Department, not my special assistant.

Sure, we interact a lot. I have a high regard for Mr. Steiner. In fact, what I want to say here is he's one of the best people I ever met. But what happened on February 25, was that I decided in the morning to recuse myself. We spent a bunch of time—I remember calling Mr. DeVore on the phone two or three times, although, he was then retired in Texas, not retired but moved to Texas—trying to figure out the best way to release the decision, should we put it out on the wires, should we issue a press release, should we tell a single reporter. That's what we did on February 25.

I did the right thing. When I was asked—when I decided to recuse myself, I didn't consult with anybody. I didn't seek anybody's permission. I did it.

Senator SHELBY. But when you finally decided to recuse yourself it was after these meetings and suggestions by staff and everybody else, wasn't it?

Mr. ALTMAN. Senator Shelby, I think the salient point is that I wasn't going to play any role on the decisions in the case. Mr.

Steiner's own diary says, "agreed to a de facto recusal where the RTC would handle this case like any other" and I "would have no involvement."

Senator SHELBY. If you weren't going to play any role, why didn't you recuse yourself and step aside?

Mr. ALTMAN. I probably should have done so 3 weeks earlier.

Senator SHELBY. My time is up.

The CHAIRMAN. I think somewhere along the time—I don't mean to trespass on Senator Mack's time—but we're going to have to get an explanation as to all of the agony about this decision, I mean why it was on, off, and takes up this length of time. It's that whole time period, but we're going to have to understand that a lot better than we understand it now.

Senator Mack.

Senator MACK. Thank you, Mr. Chairman.

Mr. Altman, I want to go back to that very short memo from Ms. Hanson, on September 30, regarding the Madison matter. It's very short and makes reference to her meeting at the White House, at least I believe it does and it goes on to ask, and I quote, "Is there anything more that you think we should be doing?" You don't think you told her to do this and never saw the memo?

Mr. ALTMAN. Senator Mack, what I tried to say before is that to me, this memo says, I've advised some people of an impending press story attached right here.

Senator MACK. I heard your testimony. Again, all I'm asking you is that you don't believe that you got the memo; right?

Mr. ALTMAN. I don't recall getting the memo, but I may have.

Senator MACK. The second point is that you don't believe that the "we" is an indication to you that she's been working with you on these matters?

Mr. ALTMAN. It says, "is there anything else you think we should be doing," which I believe modifies the impending press story. Is there anything else we should be doing about this impending press story? That's what this says.

Senator MACK. I'll get back to that in a minute. I do find that interesting. If we believe you and not her, we have to believe that she wrote you this memo for no reason at all, on a case which you knew nothing about, on a case you wanted to stay away from and reported back to you just for the heck of it. In other words, she was setting you up.

Mr. ALTMAN. I don't believe that's what happened, Senator.

Senator Mack. I want to ask you about another meeting. Mr. Roelle testified that he was in your office and overheard you tell Ms. Hanson on October 6, 1993, to tell "Jack, Bernie, and the Secretary about the possibility of leaks," but, I guess you think he was mistaken. You don't have any knowledge of that either.

Mr. ALTMAN. I don't recollect asking Ms. Hanson to go to the White House to discuss the criminal referrals, no, sir.

Senator MACK. This is not that meeting. This is October 6. That supposedly took place on the 27th.

Mr. ALTMAN. I believe that the participants in the October meeting have all testified under oath that I had nothing to do with that meeting. I believe that was their testimony.

Senator MACK. I'm getting to what Mr. Roelle said, Mr. Roelle's testimony. The question was "do you recall who he," Mr. Altman, "told her Ms. Hanson to call?" The response was "yeah, he said call Jack, Bernie and the Secretary."

Now, here's the situation for me—

Mr. ALTMAN. Is that the October meeting?

Senator MACK. This is the October 6 meeting in your office, telephone call to Ms. Hanson, right. The response again to the question is "yeah, he said call Jack, Bernie, and the Secretary."

Mr. ALTMAN. I'm not sure what your question is, Senator.

Senator MACK. My question here is, you have been testifying you don't know anything about this. We're supposed to believe you, but we now have Ms. Hanson who believes that you got a call from Roelle and you told Roelle to call Ms. Hanson to give her the details on this conversation.

That call takes place—Ms. Hanson believes that you have tasked her to go to the White House. At her meeting at the White House, she informs the White House of the referrals. She comes back and writes a memorandum to you that in essence says, I've done that, is there anything more we can do. There's also a meeting on October 6 with another person saying that you had knowledge of these things. He informs you about a press leak and you call Ms. Hanson, get her on the phone, and say, call Jack, Bernie, and the Secretary.

So all I'm saying is that this really calls into question how I can believe the point you're making as opposed to these other two individuals.

Mr. ALTMAN. First of all, Senator, this memo we've been discussing, at least in my view, does not confirm that Ms. Hanson went to the White House and talked about criminal referrals in September. It doesn't have anything to do with that. That's what you just said, Senator. You said it confirmed it. Second of all, Senator—if I may say, none of the participants in this second meeting, the October meeting, and you said this was an October reference.

Senator MACK. October 6 in your office.

Mr. ALTMAN. None of the participants in the second meeting have said they had their meeting at the White House, I believe it was October 14, at my request. Not one person has said that.

Senator MACK. All I'm trying to establish is that there's another person out there that says that you're more involved in this than you are admitting to. I mean, we have Jean Hanson, she went on at quite some length explaining the situation. Now, you have said that she, in essence, doesn't know what she's talking about; in other words, she's kind of freelancing. But there's another conversation that takes place on October 6, at which point you have gotten information from Mr. Roelle, you then pick up the phone and call Ms. Hanson, and you say to her, call Jack, Bernie, and the Secretary. Do you not recall that?

Mr. ALTMAN. First of all, Senator Mack—

Senator MACK. Do you recall that?

Mr. ALTMAN. —The questions that I was asked earlier in regard to this differing recollection with Ms. Hanson, my answer was and my answer is I don't recollect that. I think if I tasked her to do it, I would have remembered it.



Senator MACK. Remember, we're now talking about the October 6 meeting. This is a separate meeting. This has nothing to do with the issue of tasking. I'm just asking you the question, Mr. Altman. Do you—

Mr. ALTMAN. I don't recollect that.

Senator MACK. You do not remember that?

Mr. ALTMAN. I do not recollect that, no.

Senator MACK. At this point we have two people, Ms. Hanson and Mr. Roelle, that have testified under oath that they know of your involvements in these things and you say that you haven't. At that point, I'll just let it go.

Mr. ALTMAN. Senator, I believe they have testified that they made me aware of an impending press leak.

Senator MACK. Mr. Altman, I asked you the question, do you recall this incident in your office where you picked up the phone and called Ms. Hanson?

Mr. ALTMAN. No, Senator, I don't.

Senator MACK. To speak to Jack, Bernie, and the Secretary?

Mr. ALTMAN. I don't recall that.

Senator SARBANES. Senator Mack, you still have some time.

Senator D'AMATO. Yield to Senator Gramm?

Senator MACK. Certainly. If he wishes to, I'd be glad to.

Senator GRAMM. I appreciate Senator Mack yielding.

Let me go back, Mr. Nussbaum, to this Steiner diary very briefly. He writes in his diary that you had originally decided to recuse yourself but under intense pressure from the White House, you had decided to delay a final decision. And then he says that at a fateful White House meeting, which we know is the February 2 meeting with Nussbaum, Ickes, and Williams, however, the White House told Roger Altman that his recusal was unacceptable.

We have a deposition from Maggie Williams about the February 3 meeting, the meeting which was apparently too unimportant to disclose to this Committee, and here's what she says: "Well, Roger called me and he said to me, I have decided not to recuse and I want to tell some people—I wanted to tell some people in the White House that and then he said I'm on my way to this meeting, but I would like to get a few people together and tell them, and I thought OK. And he said, could you grab a few people or call a few people, and I said OK."

Now, who is this Maggie Williams?

Mr. ALTMAN. Margaret Williams is the First Lady's Chief of Staff.

Senator GRAMM. You called the Chief of Staff of the First Lady of the United States to ask her to get a few people together at the White House so you could tell them you weren't going to recuse yourself. Why?

Mr. ALTMAN. No, sir, I don't believe I did. My testimony is—

Senator GRAMM. She said this under oath.

Mr. ALTMAN. Senator, my testimony is I called Mr. Ickes, and I had a brief conversation with Mr. Ickes. I don't recall Ms. Williams being there. I'm sorry, but I don't.

Senator GRAMM. She is talking about the February 3 meeting. She says you called her and that you said to her, you've decided not to recuse and that she ought to get some people together be-

cause you wanted to come over to the White House and tell them. Why the Chief of Staff of the First Lady? Was that the source of the political pressure? Was that the intense pressure? Was that the source of the statement that it was unacceptable?

I think people want to know why you would call the Chief of Staff of the First Lady to get a meeting together so you could go back to the White House, one day after you had said you wanted to recuse yourself and they had asked you to reconsider it. I think people would want to know why the First Lady's Chief of Staff.

Mr. ALTMAN. Senator, I'd like to make two points.

Senator GRAMM. I have Hanson's corroborating statement.

Senator SASSER. Mr. Chairman, I think this witness ought to be extended the courtesy of the Senate and allow him to finish his answers.

Senator SARBANES. I agree—let me just rule on that. Certainly he'll be entitled to answer. If Senator Gramm can finish the question and then we'll let Mr. Altman respond.

Senator GRAMM. The only point I want to make is that we not only have the sworn statement from Maggie Williams, but we have corroboration from a sworn statement by Jean Hanson about the meeting. Now I'd be happy to listen.

Mr. ALTMAN. Senator, my testimony is I called Mr. Ickes. He and I were going to be attending the same meeting together, I believe it was a Health Care meeting but I'm not sure. I'd like to speak to him a moment or two before the meeting. I did speak to him a moment or two before the meeting and I said that I was not going to recuse myself for the time being. That is what happened.

Senator GRAMM. That was the meeting on the 2nd. This is the 3rd, the 3rd of February that I am referring to.

Mr. ALTMAN. No, no, no, Senator. I'm referring to the 3rd of February or whatever the date is of that second communication. If I might also add, Senator Gramm—

Senator SARBANES. Let Mr. Altman finish.

Mr. ALTMAN. If I might also add, you referred to this concept of unacceptable. I think you have testimony under oath from each of the participants in the meeting. I don't believe that any of the participants in that meeting said I was told the recusal was unacceptable. I was not told that. I was not told not to recuse myself. I wasn't told please don't do it. I wasn't told anything of that ilk.

Senator GRAMM. I'll come back to this on my time, but here's the point. Maggie Williams says under oath that you called her and asked for the meeting. You're now in disagreement not just with what Ms. Hanson says under oath and with what Mr. Roelle says under oath, but now you're in disagreement with what Ms. Williams says under oath. And I'm not the person using the terms "unacceptable" or "intense." This is a Yale and Oxford graduate who is schooled in rhetoric, writing from the heart in his own private journal, and you would have us believe that from the heart he is questionable. But when you were before us, with real questions about whether you have lied to Congress, you assert that you are more credible than this young man's heart? Totally unbelievable.

Mr. ALTMAN. First of all, Senator Gramm, I did not lie to Congress. Second of all—

Senator GRAMM. Hanson, Roelle, and Williams lied to Congress?

Senator BOXER. Mr. Chairman, I think this witness is really being treated badly by Senator Gramm.

Senator GRAMM. You've been very liberal and I yield——

The CHAIRMAN. I think Mr. Altman ought to be allowed to respond fully to this line of questioning and then we'll go to Senator Kerry who is next.

Mr. ALTMAN. I'd like to respond in the best way I can to Senator Gramm. Senator, there was a discussion on the date of February 3 or approximately that date, yes, there was and the discussion did consist of my saying that I wasn't going to recuse myself for the time being. Those are facts. I recall that I called Mr. Ickes and that my discussion was with Mr. Ickes. Ms. Williams apparently recalls it differently.

I agree with her on the essence of the conversation. I just believe I called Mr. Ickes and she believes I called her. People's recollections can differ. There's nothing unusual about that. Yes, there was the discussion.

Senator GRAMM. You didn't recall this at all when you testified on February 24. You didn't recall this meeting at all.

The CHAIRMAN. I think we can't continue the exchange here and stay within our time periods and we had another opportunity to do this but you've had a chance to put your statement on the record.

Senator Kerry.

Senator KERRY. Thank you very much, Mr. Chairman.

Let me review in my own mind maybe by way of helping myself think out loud a little bit. I think folks might be wondering where we're going and where we are. I think we're reduced to a couple of questions here in front of the Committee. What's important is not only what we're trying to find out at this point about these two areas of concern, but also what we've already found out. Specifically, many of the earlier allegations and assumptions about Whitewater and the White House in this effort are not being borne out by the evidence. There's no evidence whatsoever by anybody in any statement that we're now referring to that the President of the United States or Mrs. Clinton somehow tried to affect the outcome of this investigation.

In fact, to the contrary, the only evidence in front of us is from Ms. Kulka and Mr. Ryan that the investigation intensified. We know that the President, in fact, signed a statute of limitations, against his own interest, to continue the investigation. We know that there is no evidence whatsoever of the White House specifically interfering with the investigation.

We're really reduced to two issues in front of this Committee, fundamentally two issues. One is Mr. Altman's testimony and the question of whether or not we find there was reason to believe the testimony wasn't accurate. And no. 2, I think this is a very important area, whether—the whole recusal issues, the contacts with the White House. What was the impact of those contacts in the White House? We know that they didn't affect the investigation per se. Some try to allege that because the private attorney, Mr. Kendall, had knowledge and could give it to the President. But because the President signed the statute of limitations, whatever knowledge he had was rendered totally moot. The knowledge, if any, didn't affect it, so again we come back, no impact on the investigation.

So the issue is really was there an intent? Was there in the lack of recusal, was there in the meetings, was there in this back-and-forth something improper, notwithstanding the findings of the Committee of the various investigations on ethics, et cetera?

I want to try to explore those two areas, which I think are the center of focus and concern, and which are considerably different from what many had alleged, I might add.

Now, let me just try to clarify this, if I can, Mr. Secretary. Did you task, or did you ask, or did you instruct, or give any form of order or direction to Ms. Hanson with respect to contacts with the White House?

Mr. ALTMAN. Senator, I do not recall asking Ms. Hanson to go to the White House in connection with the September meeting.

Senator KERRY. To call the White House, to telephone the White House, to inform the White House.

Mr. ALTMAN. Is your question in relation to Madison Guaranty or any other—

Senator KERRY. With respect to any aspect of the Rose Law Firm, Madison Guaranty, or Whitewater.

Mr. ALTMAN. I don't believe so, but if we can agree Whitewater is a land deal in Arkansas. I don't know anything about that and I don't think Ms. Hanson does either. So the issue here I think is Madison Guaranty, and I believe the answer is I don't think so. I don't think I did.

Senator KERRY. Let me ask you, if you could take a look—could we have the Roelle deposition delivered to the witness? I'd ask you to take a look at this deposition, page 65, where Mr. Roelle is testifying that he was having a meeting with you on October 6, and this is a sworn deposition under oath to the Committee, and he says: "It was just me and Mr. Altman, and he called Ms. Hanson on the phone." He also says, "To the best of your memory who said what to whom during this conversation. I just told him about it and he said OK and he called Ms. Hanson and told her about it."

Now, when you say 'about it,' what did you tell him about? I told him it looked like the criminal referrals were going to become public because one of our investigators had sent an E-mail saying Sue Schmidt was in Little Rock asking a lot of questions about the criminal referral.

*Question:* Did Ms. Hanson add anything to the conversation?

*Answer:* Not that I recall.

Then you jump down a little bit.

*Question:* At the conclusion of the conversation, was it discussed as to what should be done?

*Answer:* By Mr. Roelle, yes.

*Question:* About the information you had given to Mr. Altman?

*Answer:* Yes. He told her to call a whole bunch of people.

*Question:* Do you recall who he, Mr. Altman, "told her," Ms. Hanson, "to call"?

*Answer:* Yeah. He said call Jack, Bernie, the Secretary. He named about 10 names, first names, most of whom I don't know and, obviously, the Secretary, I assume was the Secretary of Treasury, but he rattled off a bunch of names for her to call and that was the end of the conversation.

He then says he understood—

Let me read later on page 67.

*Question:* How much later did it occur to you that's who Bernie may be—and the name Bernie, did you understand that to be Bernie Nussbaum?

*Answer:* Not at the time. Later it occurred to me.

**Question:** How much later did it occur to you?

**Answer:** I don't know; probably 3 or 4 days later. I was at home and I saw Bernie Nussbaum on television about some different subject all together and I looked over at my wife and I said jeez, I hope Mr.—I hope when Altman said Bernie, it wasn't this Bernie. And that was the end of it.

That was Mr. Roelle's testimony under oath, that you directed Ms. Hanson to call the White House on October 6. Do you remember that?

Mr. ALTMAN. No, Senator I don't remember that.

Senator KERRY. No memory of that?

Mr. ALTMAN. I think it is clear that that is an awfully brief conversation; it occurred 5 or 6 months before I testified here on February 24. I don't recall it.

Senator KERRY. Do you recall it now? Does this refresh your recollection?

Mr. ALTMAN. No, sir, it doesn't.

Senator KERRY. It doesn't refresh your recollection?

Mr. ALTMAN. No, sir. I don't recall having that conversation.

Senator KERRY. You have no memory of him telling you that the criminal referrals were about to hit?

Mr. ALTMAN. Senator, as I think I testified earlier, that sometime in the fall, Mr. Roelle or Ms. Hanson advised me of an impending press leak so at some point Mr. Roelle did advise me of that, I believe. It might have been Ms. Hanson but I think—

Senator KERRY. I want to get to this. You just have no memory of it. I really want to try to establish it because the Committee is obviously going to have to sit down and we're going to balance between that. I want to be sure you're given an adequate opportunity to refresh your recollection or simply find that you don't have one. I don't know.

Mr. ALTMAN. First of all, Mr. Roelle did advise me, at some point in the fall, that the criminal referrals were in the works. We had the conversation, which I related, in terms of how to handle the case at arm's length, impartial, at the regional office, and so on. I don't happen to recall this conversation. I'm doing my best to plumb my memory.

Senator KERRY. Can I ask you this: Is it really believable for this Committee? We've all been around this place a little bit. So have you. It's very hard to believe that the Counsel to the Treasury is going to wind up at the White House at a meeting to discuss anything at all without you, or the Secretary, or somebody directing her to go.

Mr. ALTMAN. Senator Kerry, this conversation occurred in October, I believe; is that right? Ms. Hanson had two meetings at the White House, I think, September and October. I was asked a lot of questions about the September meeting, and as I said, I don't recall asking her to do that, and I think I would have remembered if I had. Nobody has suggested that the October meeting occurred at my direction. No one has suggested that.

Senator KERRY. I'm not suggesting it. I'm merely asking you—that is not my implication here but the key, there's a really central issue here about a young attorney working as counsel who says she was sent over there. Mr. Roelle, who says you directed her to call. Another person who says they remember—Maggie Williams, and you have no memory of any of these 3 contacts.

Mr. ALTMAN. No, that's not true, Senator. The only difference I have with Senator Gramm is not whether the conversation occurred. The conversation he asked me about did occur. It absolutely did occur. I just happen to think I had it with Mr. Ickes and I called Mr. Ickes, and Ms. Williams thinks I had it with her. But there's no dispute about the essence of it, I agree. Here I already said I had a conversation with Mr. Roelle about the criminal referral. I don't happen to recall this brief conversation.

Senator KERRY. I want to come back to this later in the time, sort of feeds us problems here, but I will come back to it.

Mr. ALTMAN. Senator Kerry, if I could suggest and you may not agree with me, but I think the salient points here are nothing unethical occurred. We've had an independent report from the Office of Government Ethics, nothing to do with the Clinton Administration, happens to be headed by a gentleman who was appointed by President Bush, who's looked into every aspect of this. Nothing unethical occurred.

Senator KERRY. Well, let me say, I've always had great respect for you and I'm not here to do anything except try to find out what happened. I want to know. I haven't made a judgment. You haven't been tried and found guilty as far as I'm concerned and, I think, most of my colleagues.

But I don't agree that it is simply a question of whether or not those findings by the ethics officers are all there is to it. I do agree, in your defense, that they have legitimately determined no laws or ethics standards were violated.

I think, unfortunately, theirs is almost exclusively a legal standard. And we're really talking about a standard that goes beyond just the letter of the law, if you will. We're trying to question judgment here. I mean, Mr. Cutler, in his wisdom and eloquence, has suggested bad judgment was, indeed, exercised to a certain degree. I'm trying to understand whether or not—I see my time is up. I never even got to the second area I want to get to, which is critical to this question of judgment, but it seems to me that there is a legitimate question here as to whether the judgment was right.

You said in your opening, last question, you've made mistakes and perhaps there was some bad judgment. Could you tell the Committee what you deem to be either the mistakes that you were referring to or the bad judgment that you would say was exercised?

Mr. ALTMAN. Let me step back, if I can, a moment. I'm not an ethics expert, but I don't quite agree with your characterization. Recently, for obvious reasons, I have looked through the ethical codes. Again, I haven't read every word of them or anything like that, but I think they set a very high standard. I think a conclusion from the Office of Government Ethics that there's been no ethical violation, is actually a very high bar that was crossed, not a low bar. This isn't the issue of legalities, this is the issue of ethics. As I read through the ethical codes they struck me as quite strict.

I think it's quite something that the Office of Government Ethics concluded there was no ethical violation. After all, we have a situation here where nothing illegal was done, nothing unethical was done.

Now, as to judgments, in retrospect, I think the February 2 meeting shouldn't have happened, and it should have been—that

information should have been communicated in writing. So that wasn't a great judgment.

When I look back on my February 24 testimony, I wish I had interpreted the questions a little bit differently than I did and then I would have given better answers. There was no intent to conceal the information. But I wish I had testified and put forth some additional information here because then people wouldn't think that perhaps I did intend to withhold it, but I didn't.

So sure, there was some mistakes of that type and I could go on. There were other mistakes, but there was nothing unethical and nothing illegal.

The CHAIRMAN. Let me say—excuse me. I'm sorry, Mr. Altman.

Mr. ALTMAN. Well, I think we're all human, we all make mistakes. These sure aren't the first ones I've made, and I'm afraid they won't be the last ones.

Senator KERRY. We absolutely do. I want to follow up with this a little later and I think it's very important to try to draw the record out on this.

The CHAIRMAN. We will do so, Senator Kerry. I think you are raising a very important line of inquiry and the second issue you wanted to raise, we will make sure is raised.

Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman.

Mr. Altman, you testified that you called Mr. Ickes on what date?

Mr. ALTMAN. I believe it was February 3 or it might have been February 4, a day or two after the meeting.

Senator BENNETT. A day or two after the February 2 meeting. Senator Gramm's indication was that you talked to Maggie Williams, you said and you called Mr. Ickes and the testimony was you were trying to set up a meeting in the White House; is that correct?

Mr. ALTMAN. I called Mr. Ickes to say that I'd like to have a brief conversation with him. He and I were on our way, or were going to be later that day, to the same meeting, which I think was a Health Care meeting, but I'm not certain and I wanted to talk to him a moment or two before the meeting, and we did.

Senator BENNETT. And you have no way of knowing how Maggie Williams got it in your head that you were talking to her?

Mr. ALTMAN. No, sir, but let me illustrate, Senator Bennett, one of the things that interests me just simply illustrates differing recollections. You've taken testimony under oath from several participants in the February 2 meeting.

Senator BENNETT. No, I don't want to get off on this.

Mr. ALTMAN. If I could just say this one point. Some of them say the meeting occurred in Mr. McLarty's office and some of them say the meeting occurred in Mr. Nussbaum's office.

Senator BENNETT. But that's different.

Mr. ALTMAN. But that's a fairly significant thing, 5 people testifying under oath and they have differing recollections.

Senator BENNETT. It's different when somebody says I talked to him and you say no, I didn't talk to her, I talked to somebody else, and somehow she's mistaken.

Let me get to the point, however, by taking you to the testimony before this Committee subsequent to that, whichever day it was,

and whether you called Maggie Williams or Mr. Ickes to request a meeting.

Senator D'AMATO. Did anyone request this meeting?

Mr. ALTMAN. I requested the meeting.

Senator D'AMATO. Was there any other meeting that may have been requested?

Mr. ALTMAN. No.

Senator D'AMATO. There was no other meeting that you were aware of that the White House Counsel requested?

Mr. ALTMAN. No.

Senator D'AMATO. Or anyone else from the White House?

Mr. ALTMAN. No.

Senator D'AMATO. Mr. Ickes?

Mr. ALTMAN. I had no subsequent—pause—I received no subsequent request for meetings.

You did, indeed, have a subsequent meeting with Mr. Ickes which you requested which you did not disclose to Senator D'Amato when he asked you and specifically named Mr. Ickes.

Mr. ALTMAN. Senator, I did not receive any subsequent requests for meetings. That's an accurate statement.

Senator BENNETT. That's not his question.

Mr. ALTMAN. Let me go on then and respond. I thought Senator D'Amato's question related to the question of whether I had been asked by the White House for any additional meetings, and he clarified his observe question. He said, in effect, you mean there weren't any other meetings requested by the White House? That's simply how I took his question and I answered it truthfully.

Senator BENNETT. Well, I will leave that as the record stands. Senator Kerry tried to summarize this into two issues. Last night as we were winding down, Senator Dodd summarized it into three, and I found myself agreeing with him in his summary. He says there are really three basic issues here. The first one has to do with the independence of the RTC and whether this was subverted in this Administration. He said, I find that issue troubling, if I'm remembering correctly. Senator correct me if I have my memory wrong.

I also find that issue troubling. I find your testimony troubling on this issue because it contradicts testimony we received from both Mr. Roelle and Mr. Katsanos.

Senator Dodd said the next issue is the question of being complete in your testimony before Congress, and the word Senator Dodd used, talking to Ms. Hanson, referring to the total performance of your Department was inexcusable. He said I find this inexcusable.

Then he said the third issue has to do with the number of contacts and meetings with the White House, and I find that sloppy. I find myself gravitating toward these three adjectives, troubling on the first issue, inexcusable on the second, and sloppy on the third.

As we hear your explanation in all of these three areas, in every case, in order to believe you, we must disbelieve other people who have sworn under oath. Specifically——

Mr. ALTMAN. Senator Bennett, I don't think that's true.

Senator BENNETT. I'm sorry, Mr. Altman. Your version of what happened at the White House is in direct conflict with the version we have from Mr. Steiner and Ms. Hanson. Now, we learn from Senator Gramm that your testimony is in direct conflict with



Maggie Williams. I cannot reconcile your description of what happened with theirs.

I can reconcile theirs. Ms. Hanson's version is very easily reconciled with what Mr. Steiner told us you told him about it.

Mr. ALTMAN. Senator Bennett, I respectfully—

Senator DODD. Just for purposes of clarification, since my definitions are being used, the inexcusable part, if I may—and it's not much of a distinction here—was I found Ms. Hanson's waiting so long to get back, we now know, apparently, with the availability of the full tape to look at, exactly what occurred. The fact that we didn't get a more responsive answer back from her, prior to that time, was what I found inexcusable, but basically—

Senator BENNETT. I'll adopt the inexcusable for the whole performance.

Mr. ALTMAN. Senator, if I could respond.

Senator BENNETT. Yes.

Mr. ALTMAN. I promise you I'll do my best. I believe that the testimony that you have of those who attended the February 2 meeting is fairly consistent, if not very consistent. I believe that it is. Certainly Mr. Cutler's chronology was consistent with my understanding of what happened. And the Office of Government Ethics' chronology is consistent with—

Senator BENNETT. Mr. Altman—

Mr. ALTMAN. Senator, you said you had conflicting testimony about the February 2 meeting.

Senator BENNETT. Absolutely conflicting stories as to what happened.

Mr. ALTMAN. You have conflicting testimony from the participants in the meeting, sir.

Senator BENNETT. Yes, and we can take you through Ms. Hanson's testimony if you'd like. I thought this had been gone through a number of times.

Mr. ALTMAN. I don't think that my—

Senator BENNETT. I'd be happy to go through that.

Mr. ALTMAN. I don't think my testimony is all that different from hers. Maybe I'm wrong. I didn't watch every moment of her testimony.

Senator BENNETT. In my opinion, your testimony is significantly different than hers. Perhaps more importantly, it is significantly different from Mr. Steiner's diaries, and you say but Mr. Steiner wasn't even at the meeting. Correct point. But Mr. Steiner testified here in direct answer to my questions that he got his understanding of what happened at the meetings from you. So Mr. Steiner has recorded in his diary what he understood went on, and he has testified under oath that he got it from a conversation with you.

Let me read you a specific from his diary that he said he could not explain, and I will ask Mr. Altman about this because it came from Mr. Altman, and he said yes, that would be appropriate. Here's what he says. This is dealing with the recusal issue and the follow-on to the recusal issue. Of course, the fateful White House meeting, you've heard about that. The White House told Altman it was unacceptable and so on.

Now, he goes on down and he says, "the next day, The New York Times ran a front-page story on the meeting. The heat was on. We

spent a tortured day trying to decide if he should recuse himself. I spoke with Podesta to let him know of our deliberations. Very frustrating that he was the chosen point of contact since he clearly was not in the complete confidence of George and Harold. After Howell Raines from The New York Times called to say they were going to write a brutal editorial, Roger Altman decided to recuse himself.

"Harold and George then called to say that Bill Clinton was furious." And I asked him, assuming from this writing, that Harold and George had called him, he said no, they didn't call me. They talked to Mr. Altman.

Would you tell us about that call and why Bill Clinton was furious to discover that you had decided, finally, to recuse yourself because that kind of reaction is not in any way, shape, or form compatible with the tone of the meeting as you've described it here, which was so amiable and so pleasant and nobody got excited. Everybody just said yeah, fine, go ahead, recuse yourself if you want but we won't tell you what to do. That simply doesn't coincide what Mr. Steiner tells us in his diary.

Can you tell us if, in fact, you got the call that said Bill Clinton was furious and if so, why he was furious?

Mr. ALTMAN. Senator, I may not be right, but I believe the testimony under oath from the participants in the February 2 meeting is quite consistent. I believe it is. The accounts that I've read—

Senator BENNETT. Well, you're entitled to believe it is, and I'm entitled to believe it's not. Will you now come to the point of Mr. Steiner's diary entry when he says, "Harold and George then called to say that Bill Clinton was furious"? Did that call occur, and if so, what did they tell you about the President's state of mind?

Mr. ALTMAN. I watched Mr. Steiner's testimony this morning, and Mr. Steiner said in response to the question furious with the manner of his recusal. I think that's a direct quote from Mr. Steiner. Furious with the manner of his recusal. And what they told me was they were upset that they hadn't been given prior notice. That's what Mr. Ickes and Mr. Stephanopoulos told me.

The CHAIRMAN. Mr. Altman, I believe we need a direct answer to the question that he asked. And that is—and maybe you said it and I didn't hear it—but did you receive a call and can you tell us what the contents of the call were?

Mr. ALTMAN. Sure. I did receive a call, Senator, on February 25 in the afternoon, I'm not sure what time. Let me give you the background. That morning, yes, I decided to recuse myself. I had several conversations with the public affairs people, including with Mr. DeVore down in Texas, as to the right way to release it. Should we have a press release? Should we call in a reporter? Should we call in a few reporters? How should we do that? When I received the call from Mr. Raines, I had decided to recuse myself but I hadn't released it and I said to Mr. Raines, I'm recusing myself, that's true. It was not during the phone conversation I made that decision. I made it earlier, but in any event, I then received a phone call, perhaps sometime later and after my recusal decision had been released and was in the hands of the press, after that, and Mr. Stephanopoulos and Mr. Ickes were on the phone.

The CHAIRMAN. They called you directly?

Mr. ALTMAN. Yes, sir.

Senator GRAMM. You called—both of them on the phone?

Mr. ALTMAN. They were on the phone together, yes, Senator.

And they said—well, they were angry, the two of them were angry, that they hadn't had any prior notification of my decision to recuse myself.

The CHAIRMAN. What did they say to you?

Mr. ALTMAN. I'm not sure of the exact words, but something to the effect—and it was said with anger—why didn't you tell us you were going to do this? And I simply said I made this decision, and I released it. In retrospect, they probably had a good point. I probably should have let them know out of courtesy before I let the press know. I probably should have.

The CHAIRMAN. How long did the conversation last?

Mr. ALTMAN. Just a few minutes.

The CHAIRMAN. A few minutes would be 2 minutes, 5 minutes, 7 minutes.

Mr. ALTMAN. I would say 5 or 6 or 7 minutes. And I think they said that the President was upset also with the manner of the refusal. Then they asked me about Jay Stephens—

The CHAIRMAN. When you say you think they said it that's the kind of thing you probably wouldn't forget. I mean, did they say that?

Mr. ALTMAN. I believe they said that. Then they asked me about Jay Stephens, and I had never heard of Jay Stephens. And I literally said something to the effect of who's he and they told me he was a former U.S. Attorney, I think, an avowed political enemy of the President. I never heard of Mr. Stephens, and they said the RTC had retained him as Outside Counsel, and I said well, selection of Outside Counsel decisions are never brought to me. Never once in my whole RTC tenure did I ever get asked to approve an Outside Counsel's selection and I sure wasn't asked on that one. So those aren't brought to me.

And then I said if he's been hired, he's been hired. That's it. At that point, Mr. Stephanopoulos suggested that I write a letter to the President explaining why I had released this recusal decision the way I did, and I said I would and a few days later I did, and you have a copy of that letter.

The CHAIRMAN. Senator Bennett, I thought we should get a clarification on that.

Senator BENNETT. Yes, I appreciate that.

The CHAIRMAN. I didn't mean to take your time.

Senator BENNETT. My time is gone. I have some other questions. I will stick around for a second round.

The CHAIRMAN. Senator D'Amato has asked to just raise one point here.

Senator D'AMATO. Mr. Chairman, the reason is because I think now I'm going to ask Mr. Altman.

Mr. Altman, is it safe to assume now that you concede that there was a meeting following the February 2 meeting that took place at the White House that you called, whether you called—your memory is Mr. Ickes, that you went over there and that you met with Mr. Ickes to tell him about your decision not to recuse yourself? Have we established that now?

Mr. ALTMAN. I called Mr. Ickes. We were going to a meeting together. I said I'd like to talk to you for a moment or two before the meeting, I did. And I said I'm not going to recuse myself for the time being.

Senator D'AMATO. Did you call Ms. Hanson and beep her at lunch and she then followed you, you say get to the Treasury and she said she came to the Treasury, she missed you there, and they said go on over to the White House and she went over to the White House? That took place?

Mr. ALTMAN. I asked that Ms. Hanson attend.

Senator D'AMATO. OK. So that substantiates there was this, this getting together. Now, you wanted to tell somebody of your decision. Is that a fair and accurate statement? I mean, that's what Maggie Williams says.

Senator BOXER. Could I make a point of information? Where are we on time? I'm very confused.

The CHAIRMAN. Where we are——

Senator BOXER. It's now 8 p.m. and some of us have never had a first round. I appreciate your concern, but we have 5 votes here——

Senator D'AMATO. I'm going to wrap it up in a minute if I can——

Senator BOXER. Whose time are you speaking on?

Senator D'AMATO. My own time.

The CHAIRMAN. What happened, Senator Boxer, I have tried at every point to accommodate Senators who have made special requests or who have run over or at some particular point have needed to proceed for a moment. I've tried to do that with everyone here and will continue to try to do that. Senator D'Amato just asked me if he could have a moment here to make this point. You never know how long somebody is going to go when you do that.

Senator BOXER. I'm going to ask you the same thing——

The CHAIRMAN. We're not going to go much longer. I do not think he's asked to go much longer.

Senator D'AMATO. I'm just trying to make this point.

Senator KERRY. Mr. Chairman, could I inquire for the proceedings for the evening, is it your intention to go until we finish to night or is there a possibility we might tie the witness——

The CHAIRMAN. Yes.

Senator KERRY. I'm just curious.

The CHAIRMAN. My intention would be to proceed as we did yesterday. We may very well take a break here if the witness wants one, as we did last night, and that we continue until every Senator who has remaining questions to ask has the chance to ask them. I have not discussed this with Mr. Altman.

When I put that question yesterday in your presence to Ms. Hanson, it was her wish as well, despite the fact that she was tired, that she stay and finish as opposed to, cutting it off and then coming back another day. So it will be my intention to continue tonight as long as we need to so Senators can have the time they need.

In yielding for a moment to Senator D'Amato, let me just say to anybody here, to Senator Boxer or anybody else, if you want 1, 2, 3, 4, 5 more question periods, we'll take them. We're not going to leave here until every Senator is satisfied.

Senator BOXER. Mr. Chairman, that is the point. The point is we should go in order, and I appreciate that Senator D'Amato is very concerned about this. Well, so am I, and so is Senator Bryan who's been waiting hours and the rest of us with the Senate. I would just like to insist that the Chair be fair here. I mean, he's a gentleman, he's a scholar, and he's a fine, fair Chairman, but I think we should go in order and then at the end of the evening those who want to be here until 1 a.m., 2 a.m. in the morning, let be here until 1 a.m., 2 a.m. in the morning.

Senator MURRAY. Mr. Chairman, let me just add that when you first made your announcement I calculated that I would be asking questions about 8:10 p.m. It's now about 9:40 p.m. As the last person here, I would really appreciate it if you could keep it to the time.

The CHAIRMAN. I think what we're hearing is a request that we stick to the time clock. I understand that and let's—

Senator KERRY. Mr. Chairman, the only thing I want to come back to is, I don't know if we heard from the witness, in fairness, whether or not he would like to break for a moment. He's been on—I'm not trying to change the routine, but I think we ought to just ascertain it.

Mr. ALTMAN. I would like a 5- or 10-minute break. I'm prepared to go a little further. It doesn't have to be this moment.

Senator BRYAN. Let me suggest that Senator D'Amato's question be responded to, and we take a break, and perhaps, if it doesn't get anybody too upset, I'd like to ask a couple.

The CHAIRMAN. You're next in the order, Senator Bryan.

Senator DODD. You have a lot of nerve, Senator.

[Laughter.]

The CHAIRMAN. Then what I'm going to do is—we've navigated a lot of tense moments here. Everybody is tired. I understand that—and people want to have their chance and they will do so.

Can you finish in 30 seconds? And if Mr. Altman has a response, give it, and then we'll take a break for 10 minutes and then we'll resume—

Senator D'AMATO. It will take about 2 minutes, but I think it's important and if my colleagues would just hear me out, you'll understand why. We have established there was a meeting on the 3rd, that you called the White House, that you got Ickes. There happens to be a controversy over Maggie Williams saying that she got the call, but anyway, she recalls being at this meeting. Mr. Ickes recalls being at the meeting. Mr. Eggleston, of the White House staff, recalls being at the meeting. Ms. Hanson showed up, she got there late when it had been concluded, and essentially it was for you to advise him you had decided to stay on, and not recuse yourself. Is that fair?

Mr. ALTMAN. I said I would not be recusing myself for the time being.

Senator D'AMATO. Fine. OK. Good. Now, I refer you to February 24 and when we had our hearing. At that hearing, I said as it related to—after you revealed that there was a meeting on February 2, I said did any of—oh, did anyone request this meeting? How did this meeting come about? This is the meeting you told us about. This is about the meeting on February 2.

Mr. Altman, you responded "I requested the meeting." I then asked you, "Was there any other meeting that may have been requested?" Mr. Altman, you said, "No——"

Mr. Altman, you told us clearly no and that happens not to be the case.

Mr. ALTMAN. Senator D'Amato, I interpreted your question as referring to requests from the White House and I think that was a fair interpretation because of the preceding questions which involved discussions about the White House and the President's involvement. I said that I requested the February 2 meeting and you asked your question. I just interpreted it to mean a request from the White House and you immediately followed up and said——

Senator D'AMATO. Excuse me. Let's read the transcript.

Senator BOXER. Mr. Chairman, I am going to——

Senator D'AMATO. "Senator D'Amato," would you look at the transcript. It says, "was there any other meeting that may have been requested?" That's after you said you requested the February 2 meeting. I then said was there any other meeting. You said no.

The CHAIRMAN. Let's do this, if I may.

Senator KERRY. Let's have an answer, please.

Senator D'AMATO. Is that true?

Senator DODD. Let's have an answer, cool the temperatures down a little bit.

Senator BOXER. Let's take a break.

Senator GRAMM. Let's try to get through it.

The CHAIRMAN. Why don't you give a response and if there's a need for a follow-up, let's let him look at this over the recess as well, but respond, Mr. Altman, to what's just been put to you.

Mr. ALTMAN. I think——

Senator DODD. Are you looking now at the transcript?

Mr. ALTMAN. I'm looking at the transcript. I thought that Senator D'Amato's question related to requests by the White House. Let me tell you what his follow-up was——

Senator DODD. Please let him answer.

Mr. ALTMAN. Senator——

Senator GRAMM. He changes the question.

Mr. ALTMAN. Senator, I know you may not agree, but that is what I thought. And you clarified your own question by saying, "you mean there was no other meeting that you were aware of that the White House requested?" That was your own clarification of your own question. I think there's a reasonable basis for me to have thought what your question was.

Senator D'AMATO. And I would just appeal—and I would just simply say the record states quite clearly, I asked you who set up the meeting on the 2nd. You said——

Senator MOSELEY-BRAUN. Mr. Chairman, this is not——

Senator D'AMATO. We're at a critical, crucial issue. It may be embarrassing to Mr. Altman but he has a happy facility——

Senator DODD. I don't think any of our colleagues are afraid of asking embarrassing questions.

Senator D'AMATO. If I could——

The CHAIRMAN. Let's do this——

Senator MOSELEY-BRAUN. Mr. Chairman——

Senator D'AMATO. Fine. Let me say this. My colleagues have been very patient. We will return to this question.

Senator MOSELEY-BRAUN. Good.

Senator D'AMATO. I thank them for their patience, but I'd like the question answered eventually.

Senator BOXER. Absolutely.

The CHAIRMAN. The Committee now will take a 10-minute recess and when we resume, Senator Bryan will be recognized. The Committee stands in recess.

[Recess.]

The CHAIRMAN. The Committee will resume. Let me invite everyone to find a seat and we'll begin with Senator Bryan of Nevada.

Senator BRYAN. Mr. Chairman, thank you very much.

Let me make an observation or two before I get into my line of questions. This is our third day. It's late in the evening, and what strikes me, in retrospect, is how avoidable all of this was. It's clear from the evidence before us that neither the President nor anyone in the White House or this Administration in any way tried to interfere with the course of the investigation or referral process that relates to the RTC.

The Office of Government Ethics has opined that there was no violation of any ethical standards, and I must say what I find particularly regrettable, in my view, is in my dealings with this Administration that the Treasury Department was and is really one of the shining stars. I think its focus in terms of reexamining some of the burdens that we've placed on business, its receptiveness to new approaches, its responsiveness has been something that I've found most gratifying. So being left with this very difficult situation that we deal with this evening, I think, is particularly unfortunate.

Mr. Altman, I think you were placed, as I said in my opening statement last Friday night, in an untenable position. You were asked to wear two hats, you were dancing back and forth across this line which a lot of us felt was perhaps more carefully crafted from a legislative perspective, that is to keep the RTC separate and apart from the Treasury Department. So I acknowledge that you were in a very difficult situation.

I guess at this juncture we're really here to—much as a jury to ascertain what the facts are. Let me tell you some of the things that trouble me. You go back to March 23, 1993, and Mr. Roelle indicates that he talked with you and informed you about the Madison referrals. You've indicated that you have no recollection, but I must say that circumstantially I find it more than just a bit curious that on that day and the following day two articles from The New York Times are faxed to Mr. Nussbaum.

Let me be clear, I don't think there is any violation in terms of sending those articles to anyone, but I do find that there is at least some probative value, some circumstantial evidence, that would tend to bear out Mr. Roelle.

Then we get down to the September 29 meeting at the White House. Ms. Hanson says that you're the one that asked her to set that up and you say that you did not do so, that you do not know how she may have reached that conclusion in a colloquy with initially Senator Sarbanes and later with other Members, concede

that there may have been some inference that she may have drawn, but you do not really understand how she could have reached that conclusion.

Then on October 6, Mr. Roelle testifies that, indeed, he was privy to a conversation that you requested Hanson to set up a meeting at the White House on the 14th of October and you indicate that you do not have a recollection of that conversation. Senator Kerry probed you on that.

I must say in trying to determine who is the most credible among those who are testifying to what I understand are many, many different dates, and many conversations and fact patterns, I'm beginning to see a pattern here that's troublesome.

Then we move to the question of the testimony before this Committee on the 24th, and I must say, Mr. Altman, I don't think that you were very forthright on that. Then we deal with the question of recusal, and I must say that was not in my judgment one of your finest hours. So let me focus for a bit here on the recusal process, and what you yourself were thinking as you were trying to make your decision ultimately made on the 25th of February.

Mr. ALTMAN. Senator, may I take 30 seconds?

Senator BRYAN. You may, indeed.

Mr. ALTMAN. I want to try to express myself better. I don't recall the March 1993, discussion with Mr. Roelle, but it may have happened. I'm not trying to say categorically it didn't. I just don't recall it. I think the salient point is no one has suggested that I imparted improper information to anyone.

Senator BRYAN. And that is not at issue.

Mr. ALTMAN. But, Senator Bryan, it may have happened. Now, I don't recall the other two you asked me about. And the one thing I feel strongly about, if I had tasked Ms. Hanson to go there, I think I would have remembered it. But seriously, it [the March 1993 discussion] may have happened. I'm not trying to suggest categorically it didn't. So I just wanted to clarify that in that respect.

Senator BRYAN. You understand that we who are trying to reconstruct what occurred obviously have to look at the totality of circumstances. I'm trying to be very candid with you, Mr. Altman. I mean I'm looking at this cumulative evidence that comes and trying to determine who is being more truthful. I have to tell you that those are some concerns.

Let me give you a chance to talk about the recusal process. If you can give me a time frame, when did you first begin to, in your own mind, entertain the possibility that, look, maybe I ought to recuse myself? I'm asking you just a rough time frame, you may not recall the exact day but give me—

Mr. ALTMAN. It was right around the end of January when the question was beginning to be raised about Ricki Tigert's nomination, and the recusal issues related to her.

Senator BRYAN. Mr. Altman, the testimony that we've had before us is that it's fair to say everyone who has testified in response to any aspect of that question has indicated that in their opinion, that would be Ms. Hanson, Ms. Kulka, Mr. Nye, Mr. Steiner and others all indicated that in their opinion you ought to recuse yourself.

Now, I believe that there is a different standard, that is whether one is legally obligated to recuse oneself and I understand that the



answer to that, from a legal point of view, is that you were advised that you were not. But in light of the overwhelming evidence that we have before us that virtually everyone—and I want to give you an opportunity to explore with us your thought process—thought that you ought to recuse yourself not because you were legally obligated to, but because of your relationship with the President and what we deal with in public life every day of our lives, “the appearance of impropriety.” Share with us what your thought process was.

Mr. ALTMAN. First of all, Senator Bryan, I did recuse myself.

Senator BRYAN. That was on the 25th after a period of vacillation, it would appear to me.

Mr. ALTMAN. I understand, but 3 weeks passed between first initially thinking about it and recusing myself. As you know, no decision came to me for—nothing came to me for decision.

Senator BRYAN. And I understand that.

Mr. ALTMAN. And also I think I should have recused myself originally. I should have done that.

Senator BRYAN. I think everybody here would acknowledge that, but I’m not trying to suggest that any wrongdoing occurred on your part. I’m just trying to understand—first, let me ask you more specifically, is it a fact that everyone with whom you consulted on the question of recusal during that time frame advised you that in his or her opinion you ought to recuse yourself?

Mr. ALTMAN. Yes, I believe that’s true, but I think it’s important to put that advice in context. The advice that meant the most to me was Secretary Bentsen’s advice, and he said it’s a purely personal decision, but I would do it because it’s in your self-interest.

Senator BRYAN. So he advised you as well with the caveat that ultimately it’s your decision.

Mr. ALTMAN. He said, and I don’t mean verbatim, but essentially—

Senator BRYAN. No, I understand.

Mr. ALTMAN. He said it’s entirely a personal decision, he was aware that it wasn’t required, but I would do it if I were you because it’s in your self-interest. That’s the essence of what he said. And so the answer to your question is yes.

Senator BRYAN. And we have testimony in the record that as you were going to this meeting on February 2, the first of two meetings that occurred back to back, that indeed, people who had talked with you prior to that meeting were of the opinion that you were going to, in effect, inform the White House that you were going to recuse yourself. Was that your state of mind at that time?

Mr. ALTMAN. As you know, when I called Mr. McLarty and set the meeting up, I said the purpose of the meeting—

Senator BRYAN. The February 2 meeting?

Mr. ALTMAN. Right. I called him the day before, I think. I said the purpose of the meeting is to talk about these generic RTC procedures, and when I called him I didn’t intend to go over and raise recusal, but I did raise recusal and—, but I think I did the right thing in this sense: Before I went there I had told the RTC General Counsel, Ms. Kulka, who has confirmed this, that she would be making the decisions on the statute of limitations issues involving

Madison, and I told her more than once and there were people who were there when I did.

Then when I went to the White House, I made as strong a point as I could have of saying the same thing to them. I won't be making any decisions on Madison, Ms. Kulka will be making them, and I repeated it at another point at the end of the meeting.

Senator BRYAN. I think we're drifting, Mr. Altman, I don't mean to be rude, but here again, I must say in terms of your responsiveness to the questions, I am not suggesting or leading in the direction that you did anything wrong during that—I'm trying to understand your thought process.

My question was what was your state of mind when you came to that meeting on the 2nd because there is testimony in the record that you were about to recuse yourself and, indeed, there were talking points that were prepared for you in which recusal was one of the issues.

Mr. ALTMAN. When I got to the meeting or at some point in the meeting, I said I've been advised to recuse myself and I intend to take that advice. I didn't say when.

Senator BRYAN. You said that at the meeting itself?

Mr. ALTMAN. Yes, sir.

Senator BRYAN. OK. When did you have a change of heart after that?

Mr. ALTMAN. I thought about it some more, and I went back and told the folks at the White House that I wasn't going to recuse myself for the time being.

Senator BRYAN. Was that the same day or the following day?

Mr. ALTMAN. A day or two later.

Senator BRYAN. A day or two later. And this would have been after the meeting on the 3rd?

Mr. ALTMAN. That was the meeting on the 3rd or the 4th.

Senator BRYAN. Again, someone can correct me. I see my time.

The CHAIRMAN. I'm going to try to keep it right at 10 minutes. We'll let the witness respond if he's in the middle of an answer. Go ahead.

Mr. ALTMAN. Senator Bryan, I don't want to leave any ambiguity. I wavered. I should have recused myself from the beginning. And if I could do it all over again, I would.

Senator BRYAN. Well, I appreciate that. The manner in which you recused yourself, Mr. Altman, invites great criticism and does not do you great credit. Let me just say that having done so after you get the press inquiry that there is going to be a nasty editorial or something the next day.

The CHAIRMAN. Time now comes over to the Republican side.

Senator D'AMATO. Mr. Chairman, because—and I want the record to be clear, there are more people on that side, because you have extended courtesies to us in an attempt to be able to ask our questions and have been solicitous, I would like to yield our time to your next person up.

Senator GRAMM. Why don't we just—

Senator D'AMATO. We're going to pass over.

The CHAIRMAN. Senator Boxer.

Senator BOXER. Well, thank you.

Senator D'AMATO. From one Brooklynite to another.

Senator DODD. What's up here?

Senator BOXER. I'm getting very worried.

Senator DODD. This kind of comity makes me nervous.

Senator BOXER. Just because we're going to add back the time we've had over the Brooklyn jokes to my time.

Mr. Chairman, thank you very much.

Mr. Altman, this is very hard on you and I understand that and I just want you to know that I believe there is absolutely no indication that you did anything to impede the investigation of Madison Guaranty or Whitewater or anything related.

As a matter of fact, I want to compliment you on the substance of that particular issue, because I think, unlike some of my colleagues, the fact that you yourself thought of recusing yourself, that you yourself pursued it, even though you were told the personal friendship didn't disqualify you, I think it shows that you were very sensitive to the appearance of the situation. I know that you care about this Administration and the people in it. I think that's fine. And yet I think you bent over backward.

I do agree with Senator Bryan that you were placed in a very difficult situation. It's not one of your doing and you tried to do it the best that you could, but I think it's important to note that at no time did you ever say to anyone involved in the case at the RTC that they should slow down this investigation, cover up this investigation in any way.

As a matter of fact, RTC General Counsel Kulka, who seemed to have the respect of almost everyone on both sides of the aisle, said on the contrary you stressed this case would be handled with professionalism and integrity in the same way any other case would be handled.

Now, did anyone at the White House ever ask you to compromise your handling of this case, whether criminal or civil, did they ever talk to you about the substance of this case and ask you to not pursue it?

Mr. ALTMAN. No, Senator, they didn't.

Senator BOXER. Did Mr. Nussbaum ask you not to keep Ellen Kulka, a tough attorney, as General Counsel, did he ever directly ask you to remove her from the Madison case?

Mr. ALTMAN. No, Senator, he didn't.

Senator BOXER. But he did say something to you about her being a tough attorney and you responded in what way to his comment about Ellen Kulka?

Mr. ALTMAN. Well, I had then and I have today the greatest confidence in Ellen Kulka. That's one of the reasons we hired her.

Senator BOXER. All right. And you stated to Mr. Nussbaum the fact that you had complete faith in her?

Mr. ALTMAN. Yes, and I stated that and then repeated that she would be making these decisions.

Senator BOXER. All right. And you already testified that you did nothing to stop Jay Stephens from being hired to assist in the RTC's Madison case even though you were told in a telephone conversation from some of the White House people that they were unhappy. You said what's done is done and you closed the book on it; is that correct?

Mr. ALTMAN. Yes, ma'am.

Senator BOXER. So I have no reason to believe you compromised this case in any way. I think you understood the perception here. What troubles me is, what I'm trying to get to here is really more the way this Committee was treated by you and your responses to Committee questions.

For that, I'm going to talk to you a little bit about Ms. Hanson. Now I know this is very difficult because in many ways she contradicts you and puts you in a difficult position. You contradict her and put her in a difficult position.

We have here two versions of Ms. Hanson's recollections. One of them is her own from her own computer where she made questions and answers to herself, and that was done on March 4 in anticipation, I assume, of perhaps being called back before this Committee because the Ranking Member and the Chairman were not pleased with the way the testimony went.

And in that she writes in her own words "who in the Treasury or the RTC knew that you had this conversation?" That is the conversation she had with Nussbaum.

She said "I don't recall that I told anyone of this conversation."

*Question:* Did you tell Mr. Altman?

*Answer:* No.

*Question:* Did anyone ask you to have this conversation?

*Answer:* No.

*Question:* Did you have any further conversations with anybody from the White House?

She goes on, but in this version of her memory of March 4 she says clearly, without any question, she never told you about this.

Now comes July 11, she's talking to the ethics people. She says, "Did Mr. Altman advise you to do that, meaning talk to Mr. Nussbaum?"

She says, "I don't recall exactly how the conversation developed, but it was clear to me I had the responsibility of notifying Mr. Nussbaum that these referrals were likely to be leaked and I believe Mr. Altman asked me to do it."

And the questioner says, "your best recollection is Mr. Altman asked you to contact Mr. Nussbaum?" She said "I believe so."

I think in this situation, your credibility rises a little bit. Here she says you believe you told her. Here she says in her own writing, without equivocation, no, I never told anyone, no one knew about it. And specifically asked about you, she says no.

So the situation to me is very confusing. Now, do you have any explanation, because I have a problem with Ms. Hanson's testimony, I'll be honest with you. I guess my first question is, can you possibly reconcile these two different stories?

Mr. ALTMAN. No, Senator, I can't. But if I can say, the part of this whole hearing that's most important to me is the issue of my testimony before the Committee.

Senator BOXER. Well, I haven't gotten to that yet. I'm going to ask you about that, but I want to get to the basis of this. Can you explain to me why she would put in her own personal computer when there wasn't any investigation that she never talked to you and then later on in the investigation she said she got her orders from you? Can you explain that in any way?

Mr. ALTMAN. No, I can't, but what made the biggest impression on me was that I talked to Senator Riegle the day I learned of the

meetings and informed him of that also, talked to Senator Bond, and I prepared a letter to Senator Riegle. The letter says I just learned of these meetings.

Senator BOXER. Sorry?

Mr. ALTMAN. The letter says I just learned of these meetings and a number of people looked at it including Ms. Hanson and she signed off on it.

Senator BOXER. I understand that. Let me go further. I want to understand your management style vis-à-vis your official capacity over Ms. Hanson's activities. This is a woman who is General Counsel. I consider that to be a pretty powerful position. Did you supervise her activities every single day?

Mr. ALTMAN. No, Senator.

Senator BOXER. Did you have anything in writing in terms of a manual, because in our office we have a manual where we lay out who people report to and what they can and cannot do without getting specific authority. Did you have any such manual or an agreement with her that she would have to, for example, when she spoke to another attorney, be it the White House or any other agency, she had to ask you?

Mr. ALTMAN. Senator, if I may just put it in a moment's perspective. No one in the Treasury except 3 people, my secretaries and special assistant, no one in the Treasury reports directly to me. If you look at the organizational chart, everyone reports to the Secretary of the Treasury, and my job is essentially defined as an alter ego job. So Ms. Hanson did not report directly to me, nor does anybody else.

Senator BOXER. So she had no instruction from you that she could never go to the White House, unless you told her to do it; is that correct?

Mr. ALTMAN. Yes, and I think Mr. Nussbaum testified that he had lots of conversations with Ms. Hanson. They were in regular interaction.

Senator BOXER. OK. Because, Mr. Chairman, I think it's an important point here that should be made that this was a woman in a very high position, and if she went to the White House, she didn't always have to be under strict instruction from Mr. Altman and, as he said, she didn't only report to him.

Now I have one question about what we saw on the videotape. I'm not sure it's necessary that we see it again, Mr. Chairman, but let me try to because we saw it twice, I think everyone will remember. The question is asked were there any other meetings besides the one that you talked about that you know of attended by anyone in the Treasury or the RTC or whatever the exact words are.

It looked to me like you turned to Ms. Hanson at that point, she looks like she's shaking her head no. Do you remember what you asked her when you made that quick turn to her?

Mr. ALTMAN. I believe that I had finished my answer to Senator Bond's question, which was "not to my knowledge" and I believe I leaned back and said, in effect, "that's right, isn't it," or perhaps I said there were no such meetings, were there, but she confirmed my answer.

Senator BOXER. I think that's very important, Mr. Chairman, because when I watched this tape, I believe that Mr. Altman looks

to her just at the point of that question, she appears to shake her head no, and as I understand it, Mr. Altman remembers now that he double-checked that question with her. Now, what happened after that meeting is she says she knew you hadn't given complete testimony and she couldn't do anything about it because she couldn't get the transcript from the Committee.

Do you remember anything about her asking you, saying to you "Roger" or "Mr. Altman" or whatever she—or "boss" or whatever she called you, did she—

Mr. ALTMAN. "Roger."

Senator BOXER. Did she say to you, "Roger, I'm having trouble getting this transcript from the Committee, and I think it's very important that we make these changes," do you have any recollection of that?

Mr. ALTMAN. No, she did not do that, Senator. If I can also say so, if I can also say, nor did anyone else. There were quite a number of—

Senator BOXER. I don't want to get into other people because she's told this Committee under oath that this was a priority for her. She couldn't understand why she couldn't get this transcript. She also said that when she prepared these notes that said that you never told her to go to the White House, that in fact when she prepared it, that was her recollection then, but then several months later under questioning by Ethics, she suddenly remembers that, in fact, you had told her so.

I thank you for your answers.

Mr. ALTMAN. Thank you, Senator.

The CHAIRMAN. Thank you, Senator Boxer.

Who is next on your side?

Senator Roth.

Senator ROTH. Mr. Chairman, first for the purposes of the record, I would like to make reference to the Office of Government Ethics Report, which was issued on Sunday. Mr. Altman, on a number of occasions, has referred to that report as clearing his actions. So I think it is important to see just exactly what the OGE report says.

For example, regarding the September 29 meeting—let me quote the report. It says, "it is unclear from the report what Mr. Altman's role in the disclosure of September 29 may have been. He stated that he does not recall having told Ms. Hanson to make the disclosure to Mr. Nussbaum, and he does not recall having received Ms. Hanson's memorandum of September 30.

"Ms. Hanson's memorandum to him noting the completion of the task she felt he had directed does not provide assistance in analyzing what his state of mind may have been at the time any direction may have been given." Then it goes on to say, "we feel there is insufficient information to enable us to provide you with any further analysis of Mr. Altman's participation in this disclosure, if any."

The point I'm making is that the report does not give the clear-cut clearance that Mr. Altman seemed to be claiming.

Let me, Mr. Altman, ask you, are you familiar with the standard set forth in Executive Order Number 12674 issued on April 12, 1989, as the basis for the standard of conduct regulations for Executive Branch employees which states, "employees shall endeavor to avoid any actions creating the appearance they are violating the

law or the ethical standards promulgated pursuant to this order." Are you familiar with that?

Mr. ALTMAN. I know of it, Senator, yes.

Senator ROTH. Now, the underlying regulations governing Executive Branch employees standards of conduct state, "employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts."

Now, Mr. Altman, let's assume we're reasonable people and take a look at the relevant facts. You are a personal friend of the Clintons, are you not?

Mr. ALTMAN. Yes, sir.

Senator ROTH. Your friendship with President Clinton dates back to your days as college classmates; is that correct?

Mr. ALTMAN. Yes, sir.

Senator ROTH. You've maintained that friendship with the Clintons in the years since college; is that true?

Mr. ALTMAN. We didn't have much contact in between college and mid-1991, but we're friends.

Senator ROTH. So I think that, Mr. Altman, a reasonable person with knowledge of the relevant facts would fairly hold you to have a personal relationship with the Clintons which you have already agreed that you do?

Mr. ALTMAN. Yes, Senator.

Senator ROTH. Now, Mr. Altman, given your long-time close personal relationship with the Clintons, given the Clintons' personal interest in the Madison/Whitewater matter, shouldn't you have disqualified yourself immediately from making any decision concerning Madison Guaranty, wouldn't that have been the common sense, correct thing to have done?

Mr. ALTMAN. Senator, I've said earlier that in hindsight I should have recused myself at the outset of the time I was thinking about it, around February 1 or 2, but I was advised beforehand that there was no legal or ethical requirement to recuse. And then afterwards, I sought those opinions in writing and I received two opinions in writing, one from the RTC Ethics Officer and one from the Treasury Ethics Officer, which confirmed in writing two things: The first is there is no legal or ethical requirement to recuse, and the second is that recusal decisions typically aren't taken until a matter is ready for decision. And that one wasn't.

Now, the Office of Government Ethics Report on Sunday raises questions about whether my decision to recuse had a sound foundation. It's skeptical about my decision to recuse. All I'm trying to say is it wasn't an easy decision. What I think I did right was to instruct the RTC, instruct Ms. Kulka specifically that she would be making all decisions on the case, not me, and to advise the White House of that.

So my position is I was de facto recused, I had withdrawn. You are right, I should have executed a formal recusal earlier than I did, but I think in terms of substance, I had withdrawn, and that was the more important thing to do.

Senator ROTH. Well, in fact a whole cast of senior Treasury officials recommended that you disqualify yourself. I think these included Jean Hanson and Josh Steiner, the General Counsel and Chief of Staff for the Treasury Department. Ellen Kulka, RTC General Counsel, testified that she found it difficult to understand why you would put yourself in this impossible position.

And of course, even the Secretary of the Treasury, Secretary Bentsen, agreed with this decision by stating that it sounded to him like this was something that you had to do; isn't that correct?

Mr. ALTMAN. Yes, sir, but I did do it.

Senator ROTH. Ultimately.

Mr. ALTMAN. Well, only 3 weeks passed between the beginning and the end, and it wasn't an easy decision. I should have done it at the beginning, but I don't think it's surprising to have taken 3 weeks on a relatively complex decision like that.

Senator ROTH. Mr. Altman, you testified in your deposition that the White House staff did not have a position on the issue of your recusal; is that correct?

Mr. ALTMAN. I think what I said was that no one asked me not to recuse, no one told me it was unacceptable, no one said please don't do it. I believe that the chronology that Mr. Cutler released based on his interviews of all of the participants was such that they all said it was understood that it was my decision to make it and it was a personal decision.

Senator ROTH. Now, in Margaret Williams' deposition, she states that she told you at this meeting, and I quote:

I said, well, if you're going to accept whatever recommendations they give you, why should you recuse. And then I kind of launched into this thing about everybody in the world was recusing and you know you're a person of integrity plus you're going to take the recommendations of staff anyway, so why bother.

Do you recall this statement being made by Ms. Williams?

Mr. ALTMAN. I did not recall that until I saw it, I think in Mr. Cutler's chronology, but she may well have said that.

Senator ROTH. And Jean Hanson stated in her deposition about this issue that Mr. Nussbaum, in your presence and Ms. Hanson's, argued that a fairer result would be obtained if Altman did not recuse himself and Altman agreed to consider the issue overnight. She goes on, and I quote:

I recall Mr. Nussbaum saying that he thought that if Mr. Altman did not recuse himself, that it would impose discipline on the process to obtain a fairer result and I recall Mr. Altman saying he would think about it overnight and Mr. Nussbaum saying that's all we can ask.

Do you recall such a statement by Mr. Nussbaum?

Mr. ALTMAN. I don't precisely recall it, but he might have said it, but what I did say again in the meeting, and I remember directing myself to Mr. Nussbaum, was that the RTC General Counsel would be making the decisions on this matter. And I said that unequivocally, and I don't think there is any question but that they understood it.

Senator ROTH. It does sound to me that at least two members of the White House staff had strong opinions about whether you should disqualify yourself from the Madison Guaranty referrals.

Mr. ALTMAN. But, Senator, I think, if I can say, the most important point is that I never played any role for that meeting or after that meeting at any time in any decisions relating to Madison. So



the meeting had no effect on my role relative to Madison. I had removed myself and I stayed removed.

Senator ROTH. Let me turn to the RTC's written response to Banking Committee questions following the February 24 hearing stating it is the policy of RTC not to disclose criminal referrals or information about their preparation on an institution-specific basis. Mr. Altman, are you aware of that policy?

Mr. ALTMAN. I'm aware of it now, Senator.

Senator ROTH. Were you not aware of it earlier?

Mr. ALTMAN. Well, I don't know if I was aware precisely of the policy, but I agree with it. So I understand it and I accept it.

Senator ROTH. Were you aware of the fact that under this RTC policy there were no exceptions, including press?

Mr. ALTMAN. No, sir, I wasn't.

Senator ROTH. Wouldn't it be appropriate as the acting CEO for you to be acquainted with such policies?

Mr. ALTMAN. Senator, I testified earlier today, when we started, that my full-time job is Deputy Secretary of the Treasury and my role at the RTC was a very limited role. We had senior staff.

Senator ROTH. But you were the acting CEO.

Mr. ALTMAN. Yes, but I had a very limited role. I never had any decisionmaking role relative to any investigation or any case, so I wasn't exposed in any way to cases and investigations.

The CHAIRMAN. I think we're going to try to stick to these 10-minute periods.

Senator ROTH. If I could just make one comment, Mr. Chairman. The reason I think this was important, you stated earlier, in effect, that it was all right for RTC press staff to be in contact with the White House press staff, and yet that is directly contrary to RTC policy, which you now say you were not acquainted with.

The CHAIRMAN. We'll have to come back to that another time.

Mr. ALTMAN. May I answer quickly?

The CHAIRMAN. Very briefly.

Mr. ALTMAN. I think I said, Senator Roth, that if RTC press advised the White House of some press development, I wouldn't have found that—I wouldn't have found that wrong. That's what I tried to say.

The CHAIRMAN. Well, we can't take it any further just now.

Senator Campbell.

Senator CAMPBELL. Thank you, Mr. Chairman.

My colleague from Nevada said a while ago that we are a kind of a jury and I guess so in one respect we have to make decisions, but I know, as you do, you're not on trial, Mr. Altman. And I know that some of the questions have been asked tend to probably make you feel like you have been. I'm convinced from what I've heard the last few days, and read, that there have been some mistakes. I guess what we have to decide is have they been done intentionally or with any intent to try to cover anything up. Some of your testimony seems to be contradictory, but, as I understand, it's your best recollection.

I often draw on my own experiences and I know if someone asked me something, and then asked me the same question months later, my recollections may be different on the same subject, but I don't

think that should be an indication or should be implied that I intentionally lied one time or the other time.

I'm going to try and keep some of my questions directly to your written testimony and to your letter to the President on February 2, 1994, in which you talk in your first sentence a little bit about your decision regarding recusal, and assure the President that you tried to act with the Administration's best interests in mind. Then you say the decision to have the meeting with your staff was dumb. It probably was. But the Treasury can't claim all the territory for dumb mistakes. We make a number of them here, too.

There is a question later on, though, I'll skip over a couple of paragraphs, but later on you say, "but after my testimony on Thursday, it became clear that appearances of a conflict were taking hold. I was advised that the Administration could be hammered over this for some time." Who advised you on that?

Mr. ALTMAN. I largely advised myself, but I had some conversations with our public affairs people that day, quite a few conversations.

Senator CAMPBELL. And their names are who?

Mr. ALTMAN. I remember calling Mr. DeVore in Texas. We had, at least, a couple of conversations by phone. I called Mr. Schloss in Germany, he's our Deputy Assistant Secretary for Public Affairs, and we had a conversation. So at least those two.

Senator CAMPBELL. OK, thank you. On page 1 of your testimony, you talked about some poor decisions and other mistakes you had made. Did that refer mostly to your contacts with the staff at the White House?

Mr. ALTMAN. I think, in retrospect, the information we conveyed on February 2 should have been done in writing, so it was a mistake to go over there and do it orally. I also think, in retrospect, that I misunderstood one or two of the questions I was asked on February 24 right here in this room, like Senator D'Amato's question, and if I could go back and do it all over again I would have provided a better answer.

Senator CAMPBELL. Now, moving on down in your testimony, let me ask you one other thing, too. You decided you talked—you testified when you decided to leave the RTC, but I don't remember you saying in your testimony why.

Mr. ALTMAN. Well, my term under the Vacancy Act was to expire and did expire on March 30 and I stepped down.

Senator CAMPBELL. OK. You also said that RTC investigations are done at the regional level and so that means you weren't involved, in addition to Madison, you just were never involved in anything dealing with RTC investigations; is that correct?

Mr. ALTMAN. No, sir, I wasn't.

Senator CAMPBELL. On page 6, you say when you told General Counsel Hanson that she'd be making all the decisions relating to Madison, were there other people present when you told her that?

Mr. ALTMAN. I think I told Ellen Kulka, the RTC General Counsel, and yes, sir, there were other people present.

Senator CAMPBELL. Was that just done verbally or did you do that also in writing?

Mr. ALTMAN. I think I did it just verbally.

Senator CAMPBELL. Just verbally.

Mr. ALTMAN. Ms. Kulka has testified to the same effect.

Senator CAMPBELL. We have some of your handwritten notes on lined paper here and I wanted to ask you, too, about them. Were those just random notes or was that—do you also keep some kind of organized daily journal or logbook?

Mr. ALTMAN. Could I see them, Senator?

Senator CAMPBELL. Yes. I have to dig them out. I don't know if you can see them from there or not. I just jotted a few things down from them. It seems to be your handwriting from the similarity to the letter to the President. And I wondered where did those come from, were they part of an organized journal or were they notes that you give to somebody?

Mr. ALTMAN. I keep—I used to keep.

Senator CAMPBELL. Yeah, don't do that.

Mr. ALTMAN. I used to keep a scrapbook, and by that I mean, it was filled with press clippings that I wanted to keep, some documents that I wanted to keep, and then some notes I made periodically that I wanted to keep for my own—

Senator CAMPBELL. Did you turn those in to someone or how did we get those?

Mr. ALTMAN. These were, I believe, subpoenaed in the sense of anything that could be germane to the inquiry.

Senator CAMPBELL. I see. Just a couple more, if I still have the time. You also testified that you were kind of an alter ego for, I guess, the Secretary of the Treasury and that you had a very limited role in the RTC. How did you divide your time, were you not there at all in the RTC office or did you spend half a day at each place or how did you keep track of what was going on?

Mr. ALTMAN. I did not keep an office at the RTC. Typically I went there twice a week for senior staff meetings over lunch on Tuesdays and Thursdays. Lasted about an hour and a half each time. A group of RTC senior staff people would attend those, perhaps 8 or 10. We would review the major issues facing the agency, but I was not in a position to make any operating decisions. I just didn't have the time so I didn't make any personnel decisions—

Senator CAMPBELL. Who made the operating decisions if you weren't there?

Mr. ALTMAN. In 1993, Mr. Roelle and Mr. Kelly were the two vice presidents and they generally did.

Senator CAMPBELL. On your first page, you also mention that you had some major problems that you inherited. What were those?

Mr. ALTMAN. Well, for example, when we took it over the agency had no Chief Financial Officer, it had no permanent General Counsel, it had no Deputy CEO. Those were vacant positions. And we had to go ahead and fill them. In addition, the contracting area was not what it should have been. The PLS area, which is the Professional Liability Section, the attorneys working in there were understaffed. A variety of managerial weaknesses that we set about to try to do something about.

Senator CAMPBELL. I thank you, Mr. Chairman. I think that's enough questions for me, but I would just like to commend Mr. Altman on going through a kind of a test of fire sitting here 5 hours taking this many questions, and some of them obviously not too friendly, I know is not easy.

Mr. ALTMAN. Thank you.

Senator CAMPBELL. So I commend him for that.

The CHAIRMAN. Thank you, Senator Campbell.

Senator Domenici.

Senator DOMENICI. Mr. Chairman, a while ago my good friend from New York gratuitously gave away my time. I'm usually not that complacent.

The CHAIRMAN. For a good cause.

Senator DODD. We'll give it back.

Senator DOMENICI. I think it's a great cause and when one of you will do that for me, since I've been waiting for hours and I never get to speak, I very much would appreciate it.

Mr. Altman, I know you fairly well and I heard your opening remarks where you said I've been convicted and sentenced. I want you to know that I don't believe that's the case, at least not from this Senator's standpoint. As a matter of fact, on two different occasions in press interviews, one rather major one, I said, Roger Altman deserves an opportunity to come and speak to us and tell us his side.

Now, Mr. Altman, you've done that and I've got to tell you that I'm searching my mind for some excuses for you. Maybe you had too much to do. Maybe those two hats were too big. Maybe those two hats plus trying to manage Health Care and go to all those meetings was too much for someone even as competent as you.

But I'm going to tell you today that I don't believe you did a very good job on this. I don't think your short time as acting head of the RTC bodes very well for you in terms of your past performance in Government. I think it's much, much less than normally one expects from you.

Now having said that, I want to tell you that there are at least 3 things that bother me very much. Senator D'Amato went to great ends to ask his questions to you on that important date when you appeared before our Committee and I could refer to his questions, but I'm going to refer to my own questions. We know tonight about the meeting that took place with Mr. Nussbaum and others from the White House. You went for the Health Care meeting. Where you met with them on February 3.

Mr. Altman, I believe that's enough unless you want to claim that your memory totally disappeared, and I don't believe that. I mean you are doing very, very well with meticulous details here. I believe that when I asked you that question, well, I assume we're not arguing there—you are not arguing there that you had—you are not suggesting that you had more than one, are you, and your answer was pretty unequivocal. More than one meeting, correct, and the answer was no.

Now, frankly, I don't know that I'm going to give you a lot of time to answer that one, but I just want to tell you that I believe that's very, very close to not telling us the whole truth that day. You may categorize it as something different, and again I'm trying desperately to say, well, maybe Mr. Altman was too busy, maybe he had too much on his plate. But then, Mr. Altman, I understand that literally more than a score of people helped you get ready for that meeting.

And it wasn't 1 day for that hearing. It was over a period of 4 or 5 days, and frankly, I don't believe it's possible. I mean, I don't believe you should expect me to believe that you just plumb forgot about the second meeting and I want to tell you precisely why. Because I believe that the other part that you have not yet convinced me of at all is that you had not already made up your mind before you went to the February 2 meeting with the host of White House people headed by Mr. Nussbaum. You have not convinced me at all that you had not already made up your mind to recuse yourself then and there.

The reason I think you should have remembered the next day was because the next day you were going to tell them you agree with them, that even though you went to the previous meeting on the 2nd clearly to re-recuse yourself, you went to the next meeting the very next day with some of the very same people. You said, OK, in my opinion, my humble opinion, using my words, you said, OK, I'll go along with you. Now those are pretty, pretty significant situations from my standpoint about the way you were running things.

Now, Mr. Altman, you continue to say you didn't affect any decisions; after all, you had told everybody that you weren't even going to make the decision. Now, I almost said Roger, but I'm going to say Mr. Altman, because normally when we're great buddies and shaking hands I call you Roger, but I'm not your buddy right now, I'll tell you.

Mr. ALTMAN. I can tell.

Senator DOMENICI. You got it. The truth of the matter is—the truth of the matter is that you keep saying you didn't make any decisions of any consequence. Did it ever dawn on you that some people in the White House, including your very good friends in the White House, may not have understood that and wanted you to stay where you were? Frankly, I see that as the absolute situation.

Mr. ALTMAN. Well, Senator—

Senator DOMENICI. Let me finish that thought. You can answer this one. I believe you were expected to stay there for some very special reason, and the notion in your mind that you weren't going to do anything seemed to me to be rather irrelevant to the people that were kind of depending on you to stay there, and you can answer that in a minute.

Let me tell you the last one. It is incredible to me that you come before us tonight and say that this recusal had nothing to do with Madison. I mean, that is so inconceivable when everybody is saying the whole idea of recusal had to do with Whitewater and Madison. And you're coming before us and saying it had nothing to do with it. Now if you push me on that one, I'll give you 8 quotes from people that are your good friends who say that's what it was all about.

You can start with that one if you'd like, but I must tell you that I just don't believe that you ought to come before us and as if you really have never, never with reference to RTC done anything that is more than poor judgment. I believe you intentionally stayed on for some reason.

Now, with that, perhaps you can talk a little bit and then I have a couple of questions for you.

Mr. ALTMAN. Senator, I think it's largely a factual matter if not an outright factual matter that I never played any role of any kind

on any investigation or any case at any time. I think the RTC people who have come before you, Mr. Ryan, Ms. Kulka, and others who testified right here under oath have said that.

Senator DOMENICI. Did you get my point? Why do you deny that people in the White House wanted you to stay on this job?

Mr. ALTMAN. Senator, as you know, I've said it before today. Let's look at what I did.

Senator DOMENICI. No, I'm asking you a question. Do you deny that people in high places in the White House wanted you to stay on in this acting job? Do you deny that?

Mr. ALTMAN. I can't speak for what they were thinking, Senator. I told them on February 2, not once but twice, that I wouldn't be making any of these decisions. I was unequivocal. Isn't that what you would have wanted me to do?

Senator DOMENICI. Listen, Mr. Altman, I'm not good at going through these depositions, and all, I leave that to my good friend the trial lawyer over there from Alabama. When I was about 30 years old, I tried a lot of cases, but I forgot about all that cross-examination stuff, but I can guarantee you that the record is replete with your peers saying clearly that they wanted you to stay on, and then the record's replete that you changed your mind and stayed on. Now, frankly——

Mr. ALTMAN. Senator.

Senator DOMENICI. It is replete.

Mr. ALTMAN. Did any of that have an ounce of impact on the Madison Guaranty case?

Senator DOMENICI. I understand that that's what——

Mr. ALTMAN. That is the salient point, Senator.

Senator DOMENICI. That's the salient point as you see it, Mr. Altman, but you are here because we are pondering where the truth lies in terms of what you people have been saying. Now this business of no foul, no harm or no harm, no foul just doesn't sell with me. That's your theory. No foul, no harm, no foul, but I submit you should have gotten out of that much earlier than you did, if you ever should have taken the job.

Mr. ALTMAN. Well, first of all, as to recusal, I agree with you. I started thinking about it around the end of January, or the 1st of February. I have recused myself on February 25, roughly 3 weeks later, I should have done it right off the bat. But I do think the most important thing is that I played no role and explicitly affirmed to the RTC people that I was to play no role in this matter. I took the step of saying to Ellen Kulka, more than once and there were people there when I did it, I'm not going to be making any decisions on this case. You're going to be making them.

That was the way we always did it, but I affirmed it in this case. And then I went to the White House and said I'm not going to be making any decisions on this case, Ellen Kulka is going to be making them, and they all understood that and Mr. Steiner's diary, and I have mixed reactions to that, but Mr. Steiner's diary says everyone understood at the end of the meeting that he wouldn't be making any decisions on the case.

Senator DOMENICI. Let me ask you so I won't have to go through these, but if you like, I will. Are you willing to admit to this Committee that the recusal was all about Whitewater and Madison?

Mr. ALTMAN. Senator, the statement I made earlier was that recusal had nothing to do with the RTC's investigation of Madison Guaranty. It had nothing to do with the investigation and I believe that to be true, I firmly believe that.

Senator DOMENICI. Did it not have everything to do with people in the White House wanting you to stay on because of Whitewater?

Mr. ALTMAN. Senator—

Senator DOMENICI. Can you answer that question?

Mr. ALTMAN. I can't speak to what was in their minds. I've, obviously, read the transcripts of their testimony, and we've all read those. What I had to concern myself with, what is the right thing to do with this investigation in the case, and the right thing to do was to play no role in it, to be sure I played no role at all, and as you know, I did not.

Senator DOMENICI. Now, Mr. Altman, are you willing now to admit to us that, as a matter of fact, you had made up your mind before you went to that meeting at the White House with 6 or 7 people headed by Counselor Nussbaum?

Mr. ALTMAN. I think that the people who were around me at the time, or at least in this matter, can tell you that I was of two minds. When I went over there, I said to them—by “two minds,” I mean I found it a hard decision, and that's why I sought advice. And I asked if there was any legal or ethical requirement to do it, and they said there wasn't.

So it was a hard decision and I should have taken it right at the beginning, but I—when I went there I said I've been advised to recuse myself and I intend to take that advice, and albeit with a delay, I did take the advice. And when I did recuse myself, I didn't consult with them and say, “Is it OK?”

Senator DOMENICI. Mr. Chairman, could I take 30 seconds, 40 seconds.

Mr. Altman, I just want to wrap this up and say, number one, I may not stay around here the whole evening, wait for another round, but I'm very concerned as to why it took you so long to correct the so-called record. I think you knew maybe as much as 20 days before you corrected the record that you were wrong in your answers to Senator Gramm, Senator D'Amato, myself, and also our good Senator from Missouri. Maybe you could tell us about that.

My last point has to do with whether you might be willing to tell us exactly why you stayed on in that capacity. Now you would have us—why do I want to know these things and why am I raising the inconsistencies? Because you would have this Committee believe that you're telling the truth and Ms. Hanson is not. You would have us—convince us you are telling the truth and Josh is not. In fact, you've done that two or three times already. It is very important because somebody is not telling the truth.

Mr. ALTMAN. May I have an opportunity to respond?

Senator SARBANES. Mr. Altman, we'll give you time to reply, and then we'll immediately go to Senator Moseley-Braun for her question.

Mr. ALTMAN. Senator, I'm not questioning Ms. Hanson's veracity. I'm just saying we have different recollections. With regard to the answer I gave to Senator Bond, which you raised, the answer on February 24, I gave him an honest answer and I think the record

makes clear that I gave him an honest answer. I did not know of the prior meetings at that time and I think I've presented pretty strong arguments that I didn't.

With regard to my answer to Senator Gramm, I thought the question was have you had any communications that relate to the RTC investigation of Madison. Maybe that's not what he meant. I can't know exactly what's in any Senator's mind, and I apologize to Senator Gramm if I took the question to be differently, but that's the way I did take the question, and I gave my best answer. And I do want to say as emphatically as I can, during those 10 minutes that we're talking about on February 24 that we watched on the videotape, I may not have done the best I've ever done but I tried my best.

Senator SARBANES. Senator Moseley-Braun.

#### OPENING COMMENTS OF SENATOR CAROL MOSELEY-BRAUN

Senator MOSELEY-BRAUN. Thank you very much, Mr. Chairman. It is getting late and we're getting short-tempered because of the time that's drug out this evening. I'll try to be straight to the point and specific.

Mr. Altman, in January 1993 you took the job as Deputy Treasury Secretary and then on or about March 16, 1993, you also took on the job as acting CEO of the RTC. The RTC is not a regulatory agency while Treasury, in many regards, is a regulatory and investigatory agency.

My first question to you is, when you first took the job, when you took the job with the RTC were you aware that the Secretary of Treasury serves as Chairman of the Oversight Board for the RTC?

Mr. ALTMAN. Yes, Senator, I was.

Senator MOSELEY-BRAUN. You described your role as the alter ego, and so when you took the job with the RTC were you aware that the Oversight Board and, therefore, the Treasury was specifically excluded from involvement in case-specific matters?

Mr. ALTMAN. Well, Senator, when I described myself as alter ego, that's within the Treasury now, that doesn't have to do with the Oversight Board.

Senator MOSELEY-BRAUN. Exactly right. As alter ego to the Secretary of Treasury, when you took the job with the Treasury were you aware that the Oversight Board and, therefore, the Treasury Secretary was specifically excluded from involvement in case-specific matters?

Mr. ALTMAN. Senator, I don't know if I was aware of that at the beginning, but I became aware of it at some point.

Senator MOSELEY-BRAUN. When you took the job at RTC, did you ask the General Counsel of either the RTC or Treasury for any analysis of the legal relationship between Treasury and the RTC, and if not, why not?

Mr. ALTMAN. I don't believe I did, Senator. It just did not occur to me to do so.

Senator MOSELEY-BRAUN. When you took the job with the RTC, did you seek any advice regarding the potential for conflict between the two positions that you held, and if not, why not?

Mr. ALTMAN. Senator, as you know, there is a large legal staff at the FDIC and there is a large legal staff at the RTC, and I think



it's a legitimate point for me to say that I naturally enough relied on them as far as legal matters were concerned.

Senator MOSELEY-BRAUN. Did you seek their specific advice with regard to the potential for conflict between the two agencies or the two positions that you held?

Mr. ALTMAN. Well, I was—the answer I think is no in the sense of whether I on a particular date asked for an analysis. I don't believe I did that, but I did believe on a day-in and day-out basis that's what those legal resources were for, among other things.

Senator MOSELEY-BRAUN. Have you subsequently sought advice regarding the legal relationship between these two agencies?

Mr. ALTMAN. Since this entire controversy blew up, I have, yes.

Senator MOSELEY-BRAUN. And when did you get that advice?

Mr. ALTMAN. Just in recent weeks.

Senator MOSELEY-BRAUN. Have you subsequently sought advice regarding the potential for legal or ethical conflict between the two positions that you held?

Mr. ALTMAN. Well, again, Senator, I may be wrong, but that's what I think the legal staffs are there to help me do, so I would expect that they would advise me if I was getting into a gray area or some area I shouldn't be in.

Senator MOSELEY-BRAUN. But you never got an opinion from anyone regarding the possible conflict between the two positions that you held even subsequent, even recently?

Mr. ALTMAN. I never sought a formal opinion, no.

Senator MOSELEY-BRAUN. Did you take any steps to guard against potential ethical conflicts or the appearance of such conflicts?

Mr. ALTMAN. I tried to conduct myself every single day, Senator, that way, and you know the results of the Office of Government Ethics Report which concluded, if I can say so, that there were no ethical violations.

Senator MOSELEY-BRAUN. In your capacity as RTC CEO on February 1, 1994, Ellen Kulka, the RTC General Counsel, briefed you on Madison matters, and I think it's fair to say that she briefed you on the status of civil investigation and the difficulties that the RTC would have in completing that investigation prior to the expiration of the statute of limitations. Is that a fair—

Mr. ALTMAN. No, no, it's not.

Senator MOSELEY-BRAUN. What was the substance of the briefing?

Mr. ALTMAN. The substance of the briefing was the procedural alternatives which the RTC faced as the statute of limitations approached, as to what they were and what these terms meant. I had never heard of a tolling agreement before that day and she took me—she didn't say a thing to me about the outlook for the case or the inner workings of the case.

Senator MOSELEY-BRAUN. But you did understand from Ms. Kulka at the time that there was a time pressure on the completion of the investigation with regard to Madison; is that correct?

Mr. ALTMAN. I knew what the then-statute of limitations deadline was.

Senator MOSELEY-BRAUN. The very next day, Mr. Altman, you went to the White House with Jean Hanson to meet with Mr.

Nussbaum, Mr. Eggleston, Ms. Williams, and Mr. Ickes. Why didn't you have Ms. Kulka join you rather than Ms. Hanson?

Mr. ALTMAN. Perhaps I should have, but Ms. Hanson was helping me out on a variety of matters, including some RTC matters, and I asked her to come with me. I thought I should have a lawyer present.

Senator MOSELEY-BRAUN. But there was no reason that you specifically—that you excluded Ms. Kulka from the meeting?

Mr. ALTMAN. No, Senator.

Senator MOSELEY-BRAUN. You've repeatedly testified that you directed Madison should be dealt with, Madison case should be dealt with in an identical fashion relative to any other case. This is in your conversations with Ms. Kulka and others. How did you ensure that Madison would be handled like any other RTC case?

Mr. ALTMAN. I instructed that it be.

Senator MOSELEY-BRAUN. Excuse me.

Mr. ALTMAN. I instructed that it be so.

Senator MOSELEY-BRAUN. But at the same time as interim RTC CEO, it is not your custom, is it, to join with the General Counsel of Treasury to brief potential parties to civil litigation on the work of the statute of limitations, is it?

Mr. ALTMAN. As I said in my statement, Senator, I was at that time receiving numerous inquiries from the Congress and from the media. We had at least 7 requests of the RTC staff from congressional staff. I had several letters directly from Members of Congress. And we were responding to those and in order to respond to them, of course, I had to understand what these procedural alternatives were.

It seemed to me that since we were providing that information to the Congress and, I might say I believe, to the media, I know it had been in The Washington Times, that it would be reasonable to explain the same procedural alternatives to the White House.

Senator MOSELEY-BRAUN. But again, on that meeting on the 2nd the briefing wasn't just about the media, it was also about the workings of the—of the specifics regarding the—excuse me, may I please—it was with regard to the specifics of the civil litigation and, in fact, you now discuss—

Mr. ALTMAN. Senator, no, it wasn't.

Senator MOSELEY-BRAUN. You did not discuss the statute of limitations?

Mr. ALTMAN. It had nothing to do with the specific—I may understand your term incorrectly, it had nothing to do with the specifics of the civil litigation, if you mean anything case-specific. There was nothing case-specific discussed.

Senator MOSELEY-BRAUN. The statute of limitations was not discussed?

Mr. ALTMAN. Everything we discussed on that was the same as pertains to any other case with an expiring statute of limitations.

Senator MOSELEY-BRAUN. All right, then, I will—why did you have those discussions, then, with regard to the statute of limitations and tolling agreements in this meeting at the White House?

Mr. ALTMAN. Senator, I was getting increasingly fierce inquiries from the Congress including from Senator D'Amato. I had a letter from 41 Republican Senators and those letters were demanding—

and it was perfectly OK to do that. Those letters were demanding that we take steps to extend the statute of limitations deadline. They're on the record, they're right there. I had to respond to them and I did respond to them, and frankly, I'm proud of how I did.

I remember assuring Senator D'Amato that it was an impartial process, an arm's length process, and if the basis existed for seeking a tolling agreement we would do it.

So I was in that position in terms of all these congressional inquiries and all the staff-to-staff inquiries, congressional staff to RTC, so this—I just thought if we're giving all this, if we're in a position of explaining these procedures to the Congress and to some extent to the media, it would be reasonable to explain them also to the White House. Now that was what I was thinking.

Senator MOSELEY-BRAUN. Assuming, Mr. Altman, that you took steps to guard against potential ethical conflicts, were you concerned by the time of the February 2 meeting that your two hats might create an appearance of conflict of interest or violation of the legal exclusion of Treasury Department involvement in case-specific matters coming before the Oversight Board of the RTC?

Mr. ALTMAN. I always try to be sensitive to ethical matters. I think I have a good record in that respect, and as you know, none of the Treasury personnel, including me, violated any ethical guidelines in this whole matter.

Senator MOSELEY-BRAUN. Well, that's a conclusion and I think that's part of what this hearing is all about, Mr. Altman. But in that regard, I'm trying to get to your state of mind with regard to the dual role that you held, and my question is whether your decisionmaking with regard to recusal, with regard to these meetings, with regard to anything having to do with Madison take into account the confluence, if you will, the two hats, the two roles that you played, you had two jobs and they both had different kinds of overlapping—did it take into account the dual nature of your employment?

Mr. ALTMAN. I did my best to do so.

Senator MOSELEY-BRAUN. Was your dual role considered or discussed in connection with the recusal decision?

Mr. ALTMAN. I don't quite follow you, Senator.

Senator MOSELEY-BRAUN. When you had the discussions with regard to your decision whether or not to recuse yourself in these matters, was the dual role that you played, the two jobs that you had, was that discussed or considered?

Mr. ALTMAN. Well, again, I was aware of that every single day of the week, so I suppose the answer in effect is yes, but I wanted to be careful I didn't have a separate analysis or discussion or legal opinion.

Senator MOSELEY-BRAUN. So you did consider it, but you did not have a discussion about the duality of your employment and how that would affect your recusal decision or—

Mr. ALTMAN. I don't remember any specific discussion on that point just before February 2, I do not.

Senator MOSELEY-BRAUN. Do you believe, Mr. Altman, that what you believe in that regard might have been different if you had—if you knew then what you know now with regard to the overlapping?

Mr. ALTMAN. I would have done it sooner. I didn't, you know, I didn't think about it until the very end of January, or the 1st of February because of the Ricki Tigert matter, so it wasn't on my mind for a great deal of time. But when I began to think about it, I then took 3 weeks to make that decision and I should have taken 1 day.

Senator MOSELEY-BRAUN. Well, I think that will——

I'll conclude my questions and reserve the remainder of my questions for the second round, if we ever get to it this year.

Senator SARBANES. Thank you very much.

The CHAIRMAN. Thank you very much, Senator Moseley-Braun. Senator Hatch.

Senator HATCH. Thank you, Mr. Chairman.

Mr. Altman, I'm going to ask you about a telephone conversation you had with Harold Ickes and George Stephanopoulos. It was on February 25. Do you remember having that telephone conversation?

Mr. ALTMAN. Yes, Senator, I do.

Senator HATCH. In that call, according to your testimony in the deposition, Mr. Ickes and Mr. Stephanopoulos raised with you the manner of the RTC's hiring of Jay Stephens as Outside Counsel in the Madison Guaranty case; right?

Mr. ALTMAN. Yes, Senator.

Senator HATCH. They were both very upset by the fact that the RTC had actually retained the Pillsbury, Madison & Sutro law firm with Jay Stephens at that time or, at least, Jay Stephens?

Mr. ALTMAN. Well, that was my sense, yes.

Senator HATCH. And they asked you how they had been hired; isn't that right?

Mr. ALTMAN. In essence, yes.

Senator HATCH. You understood from this telephone call that Mr. Ickes and Mr. Stephanopoulos would have preferred that Jay Stephens not be hired nor working on the Madison Guaranty matter. That was, in essence, what you understood as well?

Mr. ALTMAN. I understood they were unhappy that he had——

Senator HATCH. Sure. After this telephone conversation, then, did you speak about it then with Mr. Joshua Steiner; is that right?

Mr. ALTMAN. At some point that day I did, yes, Senator.

Senator HATCH. That's what he says. And you told Mr. Steiner you thought Mr. Ickes and Mr. Stephanopoulos were unwise to have called you about Jay Stephens.

Mr. ALTMAN. Yes, sir.

Senator HATCH. That's your own deposition.

Mr. ALTMAN. Yes, sir.

Senator HATCH. And the reason you thought that the telephone call was unwise is because it could reasonably have been construed as pressure on the RTC to get rid of Jay Stephens; right?

Mr. ALTMAN. I just thought it was an unwise thing to be asking about.

Senator HATCH. Basically it would look like pressure.

Mr. ALTMAN. It could be interpreted that way, yes.

Senator HATCH. And in fact, you said to Mr. Steiner words to the effect that those guys at the White House must be crazy to try and fire Mr. Stephens; right?

Mr. ALTMAN. I don't remember my exact words, but I told them I thought it was an unwise thing to have done.

Senator HATCH. That pretty well sums it up.

Mr. ALTMAN. The essence of what you said is what I felt.

Senator HATCH. And you were referring to Mr. Ickes and Mr. Stephanopoulos; isn't that so, when you made that statement?

Mr. ALTMAN. Not as human beings. I have the highest regard for them. I thought bringing that subject up——

Senator HATCH. I'm not trying to get you in trouble. I want to get the facts down as far as I can. Were you referring to anyone else besides Ickes and Stephanopoulos.

Mr. ALTMAN. No, sir.

Senator HATCH. Now, Mr. Altman, could I please ask you to read a page from your diary. It's dated January 11, 1994, if you have that handy. We have a blowup here if you could read it from there, I don't know. Why don't you hold that up right here. Can you read it? It's pretty hard to read from there.

Mr. ALTMAN. If you put that down, I'll read it right here.

Senator HATCH. Well, I want to point to it so just put it right here. If you could, the part I'm asking for is—why don't you give him a copy.

Mr. ALTMAN. I think I have the relevant pieces here.

Senator HATCH. OK. Well, if you'll read it, then——

Mr. ALTMAN. I have it, Senator.

Senator HATCH. If you would read it for me.

Mr. ALTMAN. I'm sorry, you want me to read it out loud?

Senator HATCH. I don't think you have to read the whole page. Why don't you just read where "Maggie told me Hillary Clinton was paralyzed." You don't need to even say that. Go down to "Maggie's strong inference."

Mr. ALTMAN. "Maggie's strong inference was that the White House was trying to negotiate the scope of an Independent Counsel with Reno and having enormous difficulty."

Senator HATCH. President Clinton asked Attorney General Reno to appoint a Special Counsel to investigate the Madison/White-water matter on January 12, 1994, if you'll recall.

Mr. ALTMAN. I don't remember the exact date.

Senator HATCH. The day before the President requested a Special Counsel be named, you made that entry in your diary, basically "Maggie's strong influence was that the White House was trying to negotiate the scope of an Independent Counsel with Reno and having enormous difficulty."

Mr. ALTMAN. Although, Senator I have since been advised that's not true, and I drew the wrong inference.

Senator HATCH. But that's what you wrote in your diary at the time?

Mr. ALTMAN. That's true, but I do want to emphasize I drew an inference.

Senator HATCH. But your source from whom you drew the inference was none other than Maggie Williams?

Mr. ALTMAN. That's true, but I did draw the inference. It wasn't a direct quote.

Senator HATCH. And she was the First Lady's Chief of Staff?

Mr. ALTMAN. Yes, sir.

Senator HATCH. The circumstances under which you developed this information occurred during a meeting you had with Ms. Williams on Health Care, as I recall.

Mr. ALTMAN. Well, my best recollection, because I normally interacted with Maggie on Health Care matters, was that these comments were one set of asides to me during a Health Care meeting. That's what I believe happened.

Senator HATCH. But you say that notation in your diary is you believe to be untrue at this point.

Mr. ALTMAN. No. I'm just saying Mr. Cutler looked into this matter and in his report, he specifically references this, and he says that he found no evidence at all that that indeed was being done, that the White House was trying to negotiate the scope. I just defer to his report.

Senator HATCH. On page 144 of your deposition, it says that you make the quote, then, you were asked the question, "What was the source of your information for that entry?" and then your answer was, "I believe it was Maggie Williams." But you're saying Mr. Cutler—

Mr. ALTMAN. No, the source of this was Maggie Williams. Something she said caused me to draw the inference. I'm simply saying that Mr. Cutler, in recent weeks during his investigation, specifically addressed himself to the question of whether, indeed, there were negotiations on the scope of the Independent Counsel's responsibilities, and he concluded there were not.

Senator HATCH. Let me draw your attention to the words "strong inference." Didn't she or Maggie Williams convey to you that the White House was trying to negotiate the scope of the Independent Counsel with Reno and that the White House was having enormous difficulty or tremendous difficulty in doing so?

Mr. ALTMAN. Senator, that's the inference I drew, yes. I'm just simply saying—

Senator HATCH. She conveyed that to you.

Mr. ALTMAN. That's the inference I drew. I did. I drew that inference. I'm just saying it has since been evaluated, and Mr. Cutler's report is clear on the extent to which it didn't happen.

Senator HATCH. And according to—I don't know that Mr. Cutler can say it did or didn't. You're the only one who can. I don't know that he was even there.

Mr. ALTMAN. No, I can't say it did or didn't either. I'm just saying that I drew that inference. I have no independent knowledge if, indeed, there were negotiations of that type. I've been told there were not.

Senator HATCH. But still you put the inference in your diary and as I understand your testimony in your deposition—I'm not trying to give you a rough time I want to get this straightened out. You testified that you put things in your diary that you considered of historical significance.

Mr. ALTMAN. To me.

Senator HATCH. To you. Well, I think that's pretty good. And you previously testified that you would not put anything in your diary which you believed to be false; right?

Mr. ALTMAN. Sure. I didn't intentionally write down anything false.

Senator HATCH. You understood at the time the question of whether a Special Counsel would be named was really a front-page story.

Mr. ALTMAN. Yes, Senator, I did.

Senator HATCH. In fact, you called it "the front-page story" in your deposition.

Mr. ALTMAN. Whitewater was, yes.

Senator HATCH. But the question of Special Counsel. And you testified in your deposition that you had already been aware of the First Lady's displeasure with having an Independent Counsel named at all or appointed; right?

Mr. ALTMAN. Well, the First Lady has said herself that she was reluctant to see that step taken. She's been very open about that.

Senator HATCH. She has. Moving ahead a bit, there came a time on February 4, 1994, when Ms. Hanson made you aware, at least she said she did, that Bernard Nussbaum thought that the Independent Counsel charter could be read to give RTC's civil jurisdiction to Mr. Fiske. Were you aware of that?

Mr. ALTMAN. I don't recall that but it may have happened.

Senator HATCH. She said she did make you aware of that.

Mr. ALTMAN. She may have.

Senator HATCH. So you were made aware that the Independent Counsel charter provided Mr. Fiske or, at least, you knew that it provided him jurisdiction over the civil RTC cases as well.

Mr. ALTMAN. Well, I believe Ms. Kulka testified, or at some point testified, that wasn't the case. And that in her view it couldn't be conveyed to the Independent Counsel. I believe she did.

Senator HATCH. Why did you draw that inference? What did she say or do?

Mr. ALTMAN. I was responding to your question about Ms. Hanson perhaps telling me on February 4, that it might be possible to convey the RTC's responsibilities to the Independent Counsel, and I believe Ms. Kulka has since testified, or at some point, that indeed wasn't true, that they couldn't be conveyed. I had no independent knowledge of it, Senator. I'm not a lawyer.

Senator HATCH. Sure. But nevertheless, you weren't unaware as head of RTC that the Independent Counsel would have, as well as criminal jurisdiction, civil jurisdiction in these matters as well? I mean, you surely understood that?

Mr. ALTMAN. I don't think I understood that the RTC could hand over its civil responsibilities to the Independent Counsel. No, I wasn't aware.

Senator HATCH. Let me move ahead to February 25, 1994, when you had decided not to recuse yourself and receive the telephone call from Mr. Stephanopoulos and Mr. Ickes. They were both upset about how you handled the recusal; right?

Mr. ALTMAN. Yes, sir, about the manner in which they were notified.

Senator HATCH. And they were upset in addition about the Stephens hiring.

Mr. ALTMAN. Yes, sir.

Senator HATCH. We've heard testimony that soon thereafter, Mr. Steiner suggested to Jean Hanson, the General Counsel, that the

RTC civil case against Madison be turned over to Independent Counsel. Had you ever heard of Mr. Steiner's suggestion before?

Mr. ALTMAN. No, sir.

Senator HATCH. That was "no, sir"?

Mr. ALTMAN. No, sir.

Senator HATCH. Did Mr. Steiner tell you of his statement to Ms. Hanson?

Mr. ALTMAN. I don't believe he did, sir.

Senator HATCH. Did you ever discuss with Mr. Steiner the issue of Fiske having RTC civil jurisdiction?

Mr. ALTMAN. I don't believe I did, sir.

Senator HATCH. Well, again, we get back to the day before the President requested that a Special Counsel be named, that you made this notation in your diary, which you must have thought was of historical significance. "Maggie's strong inference was"—you have a quote there, that "the White House was trying to negotiate the scope of an Independent Counsel with Reno and having enormous difficulty." How did you draw that inference and what did she do to cause you to draw that inference?

Mr. ALTMAN. First of all, Senator, if I understand your question, and maybe I don't, I don't think that is related to the other question you asked me about the Steiner/Hanson conversation on conveying the civil——

Senator HATCH. It's not. I'm just asking you——

Mr. ALTMAN. I drew that inference, which as I say is apparently now incorrect, from something that Ms. Williams said to me.

Senator HATCH. What did she say to you that—how could you have drawn the inference? What did she say that would cause you to draw the inference and why should you withdraw it now just because Mr. Cutler says that it's wrong?

Mr. ALTMAN. Senator, I'm not withdrawing it. I wrote it and that was the inference that I drew.

Senator HATCH. That was my point. What did she say?

Mr. ALTMAN. I don't recall her exact words. She said something to the effect that——

Senator HATCH. Testify generally. I don't care.

Mr. ALTMAN. I just can't recall her exact words, but I wrote down what the inference of those words were as I thought of it.

Senator HATCH. What's your best recollection of what she said and we'll draw our own inferences, then?

Mr. ALTMAN. I really don't remember the exact words. I honestly don't. This was 6 months ago.

Senator HATCH. Did she say anything similar to what you wrote there?

Mr. ALTMAN. Well, I drew that inference and that's what I thought the words meant.

Senator HATCH. See, I think you ought to stick with your diary rather than what Mr. Cutler says. He certainly wasn't there. I mean, you're the person who was there. You drew the inference. I won't beat it to death but I just think it's an important part of this overall matter.

Let me move on——

Senator SARBANES. Senator Hatch, I think we ought to go on.

Senator HATCH. Maybe they'll come back to me.



Senator SARBANES. We'll come back another round.

Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman. It's always interesting to be last. Everybody has gone home. Everybody is bored. Everybody has moved on, but I've had the interesting perspective of sitting here and listening to all of this to and fro'ing for the last 5½ hours and I have to ask myself, what really happened, and I kind of want to go through this. As my mother would say, were there any mortal sins?

[Laughter.]

There seems to be a real hangup here on whether you told Jean Hanson to inform the White House, or whether she assumed you had told her, or whether she went on her own. Nevertheless, she went to the White House to talk—and did talk to Nussbaum about criminal referrals. My understanding is that occurred at a meeting about Waco, and she just said that there would be press attention because the Clintons were named as possible witnesses; is that correct?

Mr. ALTMAN. That's my understanding, Senator.

Senator MURRAY. So Mr. Altman, how many organizations, independent or otherwise, have investigated this Hanson/Nussbaum discussion and determined it was not unethical?

Mr. ALTMAN. Well, the Office of Government Ethics is the primary organization, I think, which has addressed itself to the ethical issues. Of course, there's been a legal investigation by Mr. Fiske, a very thorough one. There's also been Mr. Cutler's investigation and I know him to be a man of real independence, so I think one should take his conclusions as independent ones. Those three independent investigations have occurred.

Senator MURRAY. And they all said there were no unethical discussions that occurred.

Mr. ALTMAN. Mr. Fiske addressed himself to the legal issues, and I believe Mr. Cutler and the Office of Government Ethics addressed themselves to the ethical issues.

Senator MURRAY. So it doesn't really matter whether you told her to go or whether she went on her own, because there was nothing unethical discussed—

Mr. ALTMAN. I agree with that.

Senator MURRAY. OK. We also seem to be hung up on how many contacts you had with the White House on Madison, and you responded at our Committee hearing on February 24, that you had one substantive contact, and it seemed to me when I was watching the tape that Senator Gramm interrupted you, as you said "one substantive contact." Were you going to add anything else?

Mr. ALTMAN. No. I was going to describe the one contact I had, which I thought related to the RTC's investigation of Madison. I know there's a great debate about it and I know people disagree with me, but I believe today that I only had one contact that relates to the RTC investigation of Madison.

Senator MURRAY. I heard Senator Gramm say earlier 40 contacts. Do you have any idea what those 40 contacts were?

Mr. ALTMAN. I can't recite it from memory but I believe Mr. Cutler's chronology details most, or all, of those.

Senator MURRAY. Were some of them unreturned phone calls? Would those be considered a contact?

Mr. ALTMAN. I don't know, Senator.

Senator MURRAY. Well, you nevertheless answered the question, it seems to me, in terms of substantive contacts. We now know that there was somewhere between 1 and 40 depending on who you listened to. Regardless, 1 or 40, substantive or nonsubstantive, I think the real question is: Was there any information given to the White House that the public didn't have or would not have very soon?

Mr. ALTMAN. The Office of Government Ethics addressed itself to that and it concluded that no nonpublic information was imparted. That may have been their conclusion about my meeting. I'm not sure. But as you know, no ethical regulations were violated, so in regard to my meeting, they concluded that no nonpublic information was conveyed. As an overall point, they concluded that no ethical regulations had been violated.

Senator MURRAY. Essentially, it doesn't matter how many contacts there were. There was no information imparted in any of those that shouldn't have been imparted?

Mr. ALTMAN. That was the conclusion of the Office of Government Ethics.

Senator MURRAY. Did the White House use any information from any of those contacts, whether it was one or 40, substantive or not, did they use any of that information to stop, alter, or change the investigation of Madison?

Mr. ALTMAN. No, ma'am, they did not.

Senator MURRAY. Is the Madison investigation, in fact, still moving forward?

Mr. ALTMAN. When I left the RTC on March 30 and I haven't had any contact whatsoever of any kind with it since then so I don't know where it stands today.

Senator MURRAY. Did you at any time use your position as head of RTC to improperly notify the White House regarding Madison?

Mr. ALTMAN. I don't believe so.

Senator MURRAY. And again, I'm curious about this one issue. Did the RTC or Treasury, to your knowledge, provide the same information to Members of Congress or their staff that you discussed at the February 2 meeting.

Mr. ALTMAN. In terms of these procedural alternatives that the RTC faced on Madison and any other statute of limitation situation, I believe the answer to that is yes.

Senator MURRAY. And to whom was that given?

Mr. ALTMAN. Well, I wrote myself—I wrote a letter to Senator D'Amato. I wrote a response to 41 Republican Senators. There were at least 7 contacts between congressional staff and RTC staff, which I'm told involved the same procedural matters.

Senator MURRAY. Did it include information on the statute of limitations?

Mr. ALTMAN. I'm told that they did.

Senator MURRAY. I think one of the other questions we're facing here is whether there was information given at the meeting with the White House that was nonpublic. It seems to me if Congress had it, 1 member or 40 members, it was no longer nonpublic.

Mr. ALTMAN. Again, the Office of Government Ethics reached that conclusion.

Senator MURRAY. The other controversial issue here seems to be this issue of recusal, specifically whether you were to recuse yourself on February 2 or 24. We have this 3-week period. Did anything horrible occur during these 3 weeks that made a difference whether or not you recused yourself on the 2nd or on the 24th?

Mr. ALTMAN. It had nothing to do with the investigation of Madison whatsoever. When I testified at the very beginning today, I said I thought recusal was a false issue because it had nothing to do with the investigation and because, whichever way I decided, yes, to formally recuse or to remain de facto recused, the impact was the same, absolutely the same.

Senator MURRAY. No actions, nothing occurred between February 2 and February 24 that made a difference whether or not you recused yourself at the beginning of the month or the end of the month?

Mr. ALTMAN. No, Senator.

Senator MURRAY. Thank you, Mr. Chairman. That concludes my questions.

The CHAIRMAN. Let me suggest, we've gone now through and everybody has had one opportunity. You've been at the table a long time. Would you like to take a break? What would be your wish?

Mr. ALTMAN. I'd appreciate a few minutes.

The CHAIRMAN. Why don't we do this: It's now 5 minutes to 10 p.m. Why don't we take a 10-minute break and come back and I'd like to try to finish tonight. I know that if we don't stay with it, we're likely to go on over into tomorrow. So that's something everybody has to weigh. We've got other witnesses coming tomorrow. I know you've been here a long time. I think it's probably better if we can finish tonight. So let's have the Committee stand in recess for 10 minutes, and you have a chance to refresh yourself, and then we'll resume.

[Recess.]

The CHAIRMAN. The Committee will resume, and I understand that Senator Hatch is going to go next on this side.

Senator HATCH. Thank you, Mr. Chairman.

Mr. Altman, continuing on here—

Senator D'AMATO. Can you speak into the microphone, Senator.

Senator Hatch. I'm trying to. OK. How's that?

Are you aware, Mr. Altman, that White House officials held a meeting on March 1 to discuss your February 24 testimony to the Committee? Are you aware of that?

Mr. ALTMAN. I have—I think I learned that in Mr. Cutler's chronology or sometime right around here.

Senator HATCH. Let me read to you Dee Dee Myers' notes of what the participants in that meeting said—

Senator DODD. Senator, can you speak up a little bit?

Senator HATCH. I'm trying. Apparently this isn't up high enough. Let me read Dee Dee Myers' notes.

Senator DODD. That's better.

Senator HATCH. I think I can read them accurately. "Roger said one substantive contact with White House staff"—what's that say there—yeah, I see—"I initiated it," meaning you. "Jean and I re-

quested to describe procedures 2/28 deadline. Explain process RTC would follow. That was the whole conversation, was asked one question. Had no contact with HRC," Hillary Rodham Clinton, I believe, "BC." So no contact with either the First Lady or the President. "RTC had no other contact," which is what you said and then in capital letters, she writes here "not true. White House informed him. Different memory. Assume he'll amend next week."

So her particular notes indicate that your representation that you had no other contact was just plain not true.

Now, were you aware that the White House regarded your testimony that you had only one substantive contact as not true? Did they tell you that?

Mr. ALTMAN. No, I wasn't. Mr. Podesta called me about a week after the testimony and he said—first thing he said was, what about the other two meetings, meaning the fall meetings, and I said to him I never heard of them and I believe he affirms that in his deposition.

Senator HATCH. Let me get to that.

Mr. ALTMAN. If I can just say—

Senator HATCH. Sure.

Mr. ALTMAN. —the second thing he said was—the second thing he says he said and I'm sure he did, was recusal, and my answer, Senator, was I thought I responded properly to the question, and I believe that's what his account is and that's what I'm trying to say today.

Senator HATCH. Let me read you Dee Dee Myers' notes of what Bruce Lindsey said at this March 1 meeting. Let's see, "didn't do anything"—OK. I won't read the whole thing. I'll just read what I consider to be the salient portions. It says, "White House officials say they advised him," meaning you, "to look at the legal and ethical obligations and make a decision." Subtext, "If there is no legal obligation, don't" and then exclamation point in brackets.

Now, do you understand that the White House believed your failure to mention the recusal discussions when you testified on February 24 was misleading?

Mr. ALTMAN. No, I wasn't aware of that, but let me say again, because this is real important, when Mr. Podesta called me, his account, and I assume it's true, is that he first asked about the fall meetings and I said I never heard of them and then he asked about recusal and I said I thought my answer was responsive to the question.

Now, I know some people here don't agree with me but what I'm trying to say is that was my state of mind as affirmed by my response to Mr. Podesta.

Senator HATCH. But you can see why I'm upset about it—I'm not upset but you can see why I'm raising this because Dee Dee Myers says in her notes when you represent there was only one substantive contact, "not true." And then you have Bruce Lindsey saying "look at the legal and ethical obligations. If there's no legal obligation, don't."

Mr. ALTMAN. Senator, I don't know what Dee Dee was referring to, but she could have been obviously referring to the fall meetings on the notion that I should have mentioned them and I didn't.

Senator HATCH. I don't think so. I think it was pretty clear she was referring to that but let me go to John Podesta. In Dee Dee Myers' notes again, "John Podesta then talked to Roger and told him that he had misspoken, could be misleading, assumed there was no way to correct record, write letter, et cetera, decided to leave it up to him how to do it." This was on March 1. Now, do you recall discussing your February 24 testimony with John Podesta of the White House on March 1?

Mr. ALTMAN. I recall that conversation, yes, sir.

Senator HATCH. Do you recall that Mr. Podesta told you that you had given misleading answers?

Mr. ALTMAN. No, sir, I don't believe he did. I believe he asked me the two questions I mentioned that he did.

Senator HATCH. You and Mr. Podesta did have a conversation on March 1 when he informed you that the White House was of the view that your failure to mention the recusal discussions, to use his terms, "did not fit within the frame of your characterization of the meeting being procedural"; right?

Mr. ALTMAN. Senator, I remember two points he raised with me. One was about the fall meetings, as I said, to which I responded that I never heard of them, and the other was about recusal, as I have remembered through his account. And I said that I thought my answer was responsive to the question.

Senator HATCH. Well, let me help here a little bit. Let me read from Mr. Podesta's deposition.

*Question:* Did you tell Mr. Altman on March 1 that it was the view of you and others that the White House record needed to be supplemented as to what was discussed at the February 2, 1994, White House meeting, specifically to include or to add the fact that recusal had been discussed?

*Answer:* I think my conversation with him was that we were concerned about it. We thought whether or not it fit within the frame of his characterization as the meeting being procedural, that there would be a reaction to a further disclosure that the subject of recusal came up and that it may be best to supplement the record. My conversation closed without resolution on that point or any direction on my part that he needed to supplement the record with regard to recusal. He was going to consider it. My recollection was it was under consideration at Treasury and that he would continue to—we would continue to kind of work through what was viewed as an issue or a problem.

Now, do you remember discussing any of that with him?

Mr. ALTMAN. I don't remember the precise conversation, but I think, Senator, it's important for me to note that I immediately amended the record. It was his conversation that told me about the fall meetings. I then went through the process I described earlier today—

Senator HATCH. The thing that's bothering me is that either Mr. Podesta is wrong or you're wrong and if he's right, how could you possibly forget a White House accusation to you that what you did was misleading, or wrong, or not true?

Mr. ALTMAN. Senator, I don't believe that the White House called me up and said I was misleading. I don't believe that or, at least, I don't recall it. I remember the two parts of the conversation. Yes, sir, he did ask me about recusal. He said, and my answer was, I thought that my answer was responsive to the question. Now, I think that's important because it shows what I was thinking. I might have—as I said in hindsight, I should have been more ex-

pansive but it wasn't intentional. I said to him a week after the testimony I thought my answer was responsive to the question.

Senator HATCH. But then, if you knew there was a problem with the testimony, why did you wait 3 weeks to correct the record on recusal?

Mr. ALTMAN. Well, first of all——

Senator HATCH. It seems to me there's something wrong here.

Mr. ALTMAN. I didn't wait 3 weeks.

Senator HATCH. You did.

Mr. ALTMAN. No, my letter of March 11 said I was discussing recusal with the White House.

Senator HATCH. But that was February 3; right?

Mr. ALTMAN. I'm just saying that I——

Senator HATCH. That's at the February 3 meeting.

Mr. ALTMAN. No. I'm just saying I notified the Committee that I was having a discussion—that there was a discussion with the White House on recusal on March 11. Now, I just didn't think the question called for that answer, and I appreciate that I perhaps should have, but I think the most important point is intent and my response to Podesta a week later shows that I didn't have an intent to withhold that information.

Senator KERRY. The letter was on March 11. The recusal discussion was on February 3.

Senator HATCH. But see on March 11, they still don't——

Senator KERRY. I am clarifying for Senator Hatch.

Senator HATCH. You're backing me up on this, on the 2nd, rather. This just doesn't compute, and again, I'm not trying to give you a rough time. I just want to get the facts out there because there's a real distinct difference between what Dee Dee Myers says, what Bruce Lindsey says, what John Podesta says, and what you're saying here today.

Mr. ALTMAN. But I think Mr. Podesta will affirm that when he asked me about recusal, I said, well, I thought my answer was responsive to the question. I think he'll affirm that.

Senator HATCH. But the March 11 letter did not mention the recusal discussion at the February 2 meeting.

Mr. ALTMAN. No, but Senator, I said to Mr. Podesta, I believe, my answer was responsive to the question, meaning that I thought I answered the question that I was asked.

Senator HATCH. Why, then, didn't the March 11 letter mention the recusal discussion of February 2?

Mr. ALTMAN. Well, rightly or wrongly, I didn't reach the conclusion from Mr. Podesta's call that I had answered improperly. I said—in fact, I said in contrast to that, I said to him, I gather, I thought my answer was responsive to the question. In other words, I thought I said John, I thought I answered properly.

Senator HATCH. Mr. Altman, I don't mean to beat this to death, but he told you your testimony was misleading.

Mr. ALTMAN. No, I don't believe he did tell me that.

Senator HATCH. You don't recall that?

Mr. ALTMAN. I don't recall that.

Senator HATCH. You disagree with Mr. Podesta.

Mr. ALTMAN. I don't recall it. I recall him telling me two things and I recall them quite vividly. One was the fall meetings and the other was the recusal and my response to him.

Senator HATCH. Regarding your February 1 meeting with Ms. Kulka, didn't Ms. Kulka brief you on the RTC status of its civil investigation of Whitewater?

Mr. ALTMAN. No, sir.

Senator HATCH. Mr. Nye testified under oath at his deposition as follows:

*Question:* What was and what do you mean when you say the situation that Ellen Kulka was facing?

*Answer:* That she was going to be forced to make a decision how to proceed without perfect information on a politically charged case or potentially charged case.

*Question:* What did Ms. Kulka say about the imperfections of the information at that point?

*Answer:* Just that she wouldn't have enough time between—her feeling was she wouldn't have enough time between then, the date of the meeting and the 28th, the statute of limitations expiration, to make as informed a decision that she would need to make. In her opinion, that wouldn't be enough to go through all these mountains of documents and so forth, or for her staff to do so, and that ultimately she would have to be making a decision with the best information possible at that time. So the shortness of questions—so the shortness of time and the inability to develop fully the facts of the case was identified as a problem—as problems in and the answer is, yes.

Now, Mr. Nye testified earlier today—

The CHAIRMAN. Senator Hatch, I don't want to break up your question, but we're over the time.

Senator HATCH. I'll finish in just two sentences.

Mr. Nye testified earlier, again today, that this is what occurred. Was he telling the truth?

Mr. ALTMAN. I'm not disputing that account, Senator. I agree with that. I'm just saying I don't think that's a briefing on the status of the investigation. Ms. Kulka testified that she would make her decision by February 28 as best she could.

Senator HATCH. But earlier today Mr. Nye testified that Ms. Kulka discussed a tolling agreement. Now, was he telling the truth?

Mr. ALTMAN. She did discuss a tolling agreement, Senator, but she didn't provide, as far as I'm concerned, a status report on the investigation.

Senator HATCH. But he also said—

The CHAIRMAN. Senator Hatch—

Senator HATCH. I have one sentence and I'll quit for the night.

The CHAIRMAN. I understand but you just said a minute ago two sentences. I don't want to be arbitrary but it keeps going back and forth and we're over the time.

Senator HATCH. If I could make one last comment and then I'll quit for the night.

Mr. Nye also testified that Ms. Kulka told you that it would be difficult to conclude the investigation by February 28, and that it might be necessary to present a tolling agreement to the Clintons. Did he testify truthfully?

Mr. ALTMAN. I believe he did, Senator, but I just don't think that's telling me what the status of the investigation is. Ms. Kulka's testimony, I think, is the decisive one and she said—she doesn't dispute Mr. Nye's account, I don't think—she says I was

going to make my decision, and knowing Ellen Kulka as I do, she sure would have.

Senator HATCH. My time is up.

The CHAIRMAN. Thank you.

Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

Mr. Altman, today in your statement, your opening statement, you were discussing the different story put forward by Ms. Hanson and by you, and you said recollections can differ, of course. There's nothing unusual in that. Now, the thing I'm trying to puzzle through, and I want to put to you and then get your explanation is, I accept that, but there's a difficulty when your recollection seems to be differing with a whole list of people. Let me just run through that.

In fact, in your statement on page 4, you acknowledge a difference with Mr. Roelle concerning a hearing about a possible criminal referral as early as March 1993.

Mr. ALTMAN. Senator, if I can just say—

Senator SARBANES. No, let me run through them all and then I'd be happy to have you address them. You say I respect him, but I do not recall it. Then we have the Hanson testimony. Of course, Ms. Hanson was in here for a very long time yesterday and stuck very much to her story about having—you keep wanting to use the word "task" and I'm not quite sure whether you attach a particular significance—I'd like to get off of that word to find out whether you might have, in some other way, suggested to her or indicated to her or something that she ought to go over and talk to Nussbaum.

In any event, you said you didn't do that. Now, Ms. Hanson on September 30, sent you a memorandum in which she says, "I have spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan" which are the two people she talked to at that White House meeting after the Waco session. "I have asked Bill Roelle to keep me informed. Is there anything else you think we should be doing?" That's a memo to you of September 30.

Ms. Hanson also called Sloan the next day after the meeting, where she saw Nussbaum and Sloan, and tells him to remind Nussbaum about The New York Times fax that you had sent on March 23. She had mentioned to Nussbaum about this material that had come from you, and Nussbaum had said to her, I didn't get any such material. I don't know what you're talking about.

The following day she called Sloan to tell him that there had been a New York Times fax. The question then was how would Hanson know of the fax if you hadn't spoken to her about it, since it was a fax that came from you at an earlier time. Now, Roelle says that at the October 6 meeting with you about the Madison criminal referrals and I'm now quoting from his deposition:

*Question:* Who else was present for this?

*Answer:* Nobody. There was just me and Mr. Altman and he called Ms. Hanson on the phone.

*Question:* To the best of your memory, who said what to whom during this conversation?

*Answer:* I just told him about this and he said OK and he called Ms. Hanson and told her about it and that was pretty much it."

And there's some more questions and answers:

*Question:* Do you recall "who he," Mr. Altman, "told her," Ms. Hanson, "to call"?



*Answer:* Yeah, he said, "call Jack, Bernie, and the Secretary. He named about 10 names."

Now, Ickes tells us the purpose of this meeting, and the focus of Altman's discussion, was the relationship at the time that he felt this investigation might be wrapped up. And he said, at least in so many words, that it was his understanding the investigation probably would not be concluded and that a determination could not be made by the RTC's General Counsel as to whether there was a basis for a civil claim until after the expiration of the statute of limitations. That's Ickes.

Williams, Maggie Williams, tells us that you called her about coming over for a meeting. Now, you say that it wasn't Maggie Williams, it was Ickes. You said that Ickes was wrong in this comment that he made. You've fairly well repudiated a good part of Steiner's diary.

Is there some conspiracy at work here, on the part of a lot of people, to contradict your versions? I mean, we've got Roelle, Hanson, Ickes, Williams, and Steiner.

Mr. ALTMAN. Senator, there's no conspiracy. Why don't we go through these one by one. You asked me about March and Bill Roelle. I don't recall him telling me about the criminal referral but he may have. I just don't recollect it. He may have told me.

You asked me about this memorandum. I may well have received this. I probably did, but this memorandum does not confirm any discussions at the White House regarding the criminal referral. This memorandum, which I must say, I think, is awfully clear, is attached to a compendium of press stories—excuse me, a compendium of stories the press may be working on and the operative one is relating to the Rose Law Firm that The Washington Post and the Associated Press are working on. I just don't believe that confirms Ms. Hanson's September meeting.

You asked me about——

Senator SARBANES. When did Ms. Hanson's September meeting with Nussbaum and Sloan take place?

Mr. ALTMAN. I don't know which day it was in September. The 29th? I'm not sure.

Senator SARBANES. It was September 29. What is the date of this memo saying I have spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan.

Mr. ALTMAN. Senator, the date is the 30th.

Senator SARBANES. The 30th, the next day.

Mr. ALTMAN. Do you know what this is? This is a comprehensive——

Senator SARBANES. I have it right here.

Mr. ALTMAN. But it's a compendium of developing press stories or at least stories that the RTC thinks is developing.

Senator SARBANES. That's right, which refers to the first paragraph of the memo.

Mr. ALTMAN. I just don't think this confirms that——

Senator SARBANES. The first paragraph of the memo is relevant to the Early Bird. The second and the third paragraph need not be, in my judgment, are not relevant to the Early Bird memo. The first paragraph of this memo says, "Steve Katsanos has talked with Sue Schmidt (see attached RTC Early Bird)." That's this.

The next paragraph says, "I have spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan." Now, it seems to me the reasonable view of that is that was with respect to the meeting that had taken place just the day before. Then the next paragraph "I have asked Bill Roelle to keep me informed." Of course, Roelle had just, in effect, informed you all about the referrals 2, 3 days before, as I recall. "Is there anything else you think we should be doing." I know how you're trying to parse this memo, but I don't agree with it.

Anyhow, what's next?

Mr. ALTMAN. You asked me about Mr. Ickes's comment in his deposition.

Senator SARBANES. What about the Sloan—the Hanson conversation with Sloan about The New York Times fax and how would Hanson have known that but for talking with you?

Mr. ALTMAN. I don't know, Senator, but I don't know what's wrong with sending a fax of a press clipping.

Senator SARBANES. No, I didn't say anything was wrong with sending the fax.

I didn't see anything wrong—how did—I'm trying to get at Hanson's credibility given the direct contradiction between her testimony and yours. How would Hanson have known to call Sloan the next day about the fax if she didn't learn about the fax from you because the fax was something you sent to Nussbaum back in March 1993; is that correct?

Mr. ALTMAN. That's what the fax—yes, that's what the fax suggests, yes.

Senator SARBANES. Before Hanson took over as General Counsel at the Treasury?

Mr. ALTMAN. I can't remember exactly when Jean arrived.

Senator SARBANES. She came in June.

Mr. ALTMAN. All right. It could have been.

Senator SARBANES. How would she have known to call Sloan about this fax if she hadn't been talking with you?

Mr. ALTMAN. I don't know the answer to that, Senator.

Senator SARBANES. What about Roelle and the telephone conversation at the October 6 meeting?

Mr. ALTMAN. I don't remember that.

Senator SARBANES. Ickes's report on the February 2 meeting?

Mr. ALTMAN. That one I have a very strong view on, Senator, and that is incorrect. That is not what happened, and I believe Mr. Ickes, when he comes before you, whenever that is tomorrow, will not say what I gather you have.

Senator SARBANES. What makes you believe that?

Mr. ALTMAN. Just because it's incorrect.

Senator SARBANES. What about Williams?

Mr. ALTMAN. Well, I don't think that's very meaningful. I agree that the conversation took place. I just think I called Ickes to set it up and I had it primarily with him. And she thinks I set it up with her, but the conversation took place, I don't dispute that. I think that's a minor issue as to whether I had it the way I say or she says. It took place.

Senator SARBANES. She says that you said—did you say your recollection, specifically, was I want to come over in person and

have a meeting to announce this? I don't remember if he said I want to come over in person. I think he said I want to talk to a few people, can you get some people together and I maybe said west wing office or he could have named—why would Maggie Williams say this if it hadn't happened?

Mr. ALTMAN. Senator, again, the conversation or the essence of it, did happen. I'm not disputing that. I think I happened to call Mr. Ickes and primarily had the conversation with him, but I did have the conversation, so I'm not disputing that.

Senator SARBANES. My time has expired.

The CHAIRMAN. Senator D'Amato is prepared to yield you 2 additional minutes.

Senator SARBANES. No, I'm finished.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Mr. Chairman, if I might, this will take us back to the question of that meeting on the 3rd and whether the meeting came up as a result of talking to Maggie Williams and/or Ickes. There was a meeting. Is that not correct, Mr. Altman?

Mr. ALTMAN. I'm sorry, Senator.

Senator D'AMATO. Whether or not the meeting came about as a result of your conversation, your contact first with Mr. Ickes or with Ms. Williams, there did come a time, right, on or about February 3, the day after your decision where you went home and you meditated about recusal, then you went over to the White House. You had called earlier. You missed Jean Hanson for lunch. She kind of was one step behind. But we know there came a meeting and at that meeting there were at least Williams, Ickes, and Eggleston. Hanson got there later. Is that not a fact?

Mr. ALTMAN. I had the discussion, as I said, Senator, that I recall having with Mr. Ickes, a couple minutes before another meeting we were both scheduled to attend.

Senator D'AMATO. Wasn't Mr. Eggleston there?

Mr. ALTMAN. I don't recall whether he was there.

Senator D'AMATO. Mr. Eggleston says he was there in his deposition. Maggie Williams says she was there.

Mr. ALTMAN. Senator, I'll give you my best recollection.

Senator D'AMATO. Well, your best recollection is that—and I can read you Maggie Williams' statement where she talks about you calling and getting together in the West Wing. Senator Sarbanes just went over that with you and you said could you get some people together. But there did come a time when you went over to the White House and you talked and you informed Mr. Ickes and you don't recall if Ms. Williams was there and Eggleston, that you were not going to withdraw, that you were going to continue on the case, and that you would not recuse yourself. Isn't that right?

Mr. ALTMAN. I said I was not going to recuse myself for the time being.

Senator D'AMATO. Good. OK. So that took place on February 3; is that not correct?

Mr. ALTMAN. Around February 3, yes.

Senator D'AMATO. Let's go back to the conversation we had when I asked you about meetings. Now, remember the night before I told you, we were going to ask you about this, about contacts that you had or that the White House had, et cetera, and I refer you, and

I think you have a copy of the transcript of the hearing on February 24 to page 63. Do you have it in front of you?

Mr. ALTMAN. Yes, sir.

Senator D'AMATO. If you count up 10 lines from the bottom, it says, "Senator D'Amato." That refers to a question I asked. Will you read with me? I said "did anyone"—and I'm asking you now about the meeting of February 2. I'm asking you how this came about. I said "did anyone request this meeting?" You responded "I requested the meeting." I then went on, "Was there any other meeting that may have been requested?" You then responded, "No."

Now, Mr. Altman, is that statement incorrect?

Mr. ALTMAN. Senator—

Senator D'AMATO. Do you read that—you see it in front of you?

Mr. ALTMAN. I do, Senator.

Senator D'AMATO. Now, is that statement—you said no. Is that incorrect or not?

Mr. ALTMAN. I interpreted your question to mean were there any other meetings that the White House requested and I said no to that question—

Senator D'AMATO. Excuse me. The question of the White House—excuse me. The question of the White House did not come up until after you answered that question. I said were there any other meetings that may have been requested, to which you said no. After that, I then propounded a series of questions to ascertain the people from the White House may have put forth these. You cannot now tell me that you're answering a question that you didn't know I was going to even ask at that time.

I ask you again; is that not correct? Were there any other meetings that may have been requested. You said no.

Mr. Altman, is that correct? Is that correct?

Mr. ALTMAN. That's how I interpreted your question.

Senator D'AMATO. But is that correct?

Mr. ALTMAN. I think the context of your question before—

Senator D'AMATO. Mr. Altman, the context of my question before was as it related to who set up the meeting of February 2—of February 2, quite clear. There's no reference to any—who set it up. You went on to say, and I'm paraphrasing, that you did, you requested the meeting. I said, "Was there any other meeting that may have been requested?" You said, "No."

Now, Mr. Altman, you were not aware of that meeting in which you rushed over to the White House to inform them of your decision to not recuse yourself at that time?

Mr. ALTMAN. First of all, Senator—

Senator D'AMATO. I mean, you forgot that?

Senator SASSER. Mr. Chairman, for goodness sake, can't this witness answer a question? I mean, I've never seen such badgering of a witness in my life here.

Senator D'AMATO. Was it correct, Mr. Altman?

Mr. ALTMAN. I answered the question that I thought you asked and I answered the question that you asked to the best of my ability. I think there's a reasonable basis to have interpreted it the way I did because you immediately said, you mean there were no other meetings requested by the White House?

Senator GRAMM. He didn't know—

Senator BOXER. Mr. Chairman, now we've got two——

Senator DODD. He can answer. You made your point and I'd like to hear an answer. We've been over this matter but I'd like to hear an answer.

Senator KERRY. I have no objection, I'm sure nobody has any objection to tough questions being asked but when two people start jumping in asking questions and the witness doesn't have an opportunity to answer, none of us are well served. I'll go for as long as we want but this witness has had a long, grueling night.

Senator D'AMATO. Let me say this to you——

Senator KERRY. I think we should get the answer. I'm not saying we shouldn't, but let's do it in an orderly fashion.

Senator D'AMATO. Mr. Altman, when I asked you, were there any other meetings that may have been requested, you answered no. In light of what you know now, in light of what you have heard testified to, that you called at least two people to set up a meeting on the 3rd, that's what Maggie Williams says, that's what Ms. Hanson says, Mr. Ickes verifies the meeting, and Mr. Eggleston verifies the meeting. Is it not true that that answer was not responsive and not accurate?

Mr. ALTMAN. No, Senator, it isn't. That question was responsive to the question as I understood it.

Senator D'AMATO. Let me tell you, the question as you understood it, that you make reference to, didn't take place until after you answered. I then pursued that when you said no, I then asked you about other contacts.

Mr. ALTMAN. But I think it's a reasonable thing to see how I might have come to that conclusion because you say you mean there were no other meetings requested by the White House? You were explaining your own question.

Senator D'AMATO. I only raised the question after you said precisely no to the question as to were there any other meetings? You said no. I have to tell you, it is hard for this Senator to see how you could have forgotten the meeting of February 3. I then went further to say: Did other people possibly set them up? Did the White House set it up, et cetera. I have to tell you, are you saying now that because maybe Ms. Williams set it up or because Ms. Hanson set it up that there was no meeting?

Mr. ALTMAN. No, Senator, I believe I called Mr. Ickes.

Senator D'AMATO. So the difference is because you called Mr. Ickes, that it means you didn't have to tell us about the meeting of February 3?

Mr. ALTMAN. No, Senator. I'd like to try to make one thing as clear as I can.

Senator D'AMATO. Yes, please.

Mr. ALTMAN. I've testified the same way I've always tried to testify when I come before the Congress, and I've had the privilege of doing that many times, and there are some Members on this Committee who have known me for some time, and they think of me what they do, but I just want to assure this Committee that I didn't show up here on February 24 as a different person, as a different person than I've been every other time. Senator Riegle—Senator Riegle knows me very well. I thought he always had a high regard for me. I hope that's true.

Senator D'AMATO. Mr. Chairman, I don't mean to——

Mr. Altman, you're now not being responsive to the question and I understand your answer. I don't accept it, but reasonable people may disagree. Let me move on to something else.

Mr. Ickes testifies about the meeting in his deposition on July 24. Among other things he was asked, are a number of questions about the details of the statute of limitations and the progress of the inquiry being conducted. He goes on and he says:

What he discussed was whether there was an inquiry underway and that, in his view, based on information from his sources—I don't think he delineated them, but I assumed one of them was the General Counsel of the RTC—that investigation was going to take a longer period of time to conclude and that it might not conclude until after the expiration of the statute of limitations.

Now, that's Mr. Ickes, a trained lawyer, Deputy Chief of the White House. That's his recollection. Let me go on to page 122.

Mr. ALTMAN. Senator, that is false.

Senator D'AMATO. He says the purpose of the meeting——

Mr. ALTMAN. That is false.

Senator D'AMATO. OK. You disagree with him.

Mr. ALTMAN. Not only do I disagree with him, but the facts disagree with him. The facts disagree with him, and I can tell you in the strongest terms that that is false.

Senator D'AMATO. Let me continue. Mr. Ickes says the purpose of this meeting and the focus of his discussion, and I think this goes to the essence of being responsive to the Committee, was the relationship of the time that he felt this investigation might be wrapped up, and he said, at least in so many words, that it was his understanding that the investigation probably would not be concluded and that a determination could not be made by the RTC's General Counsel as to whether there was a basis for a civil claim until after the expiration of the statute of limitations had applied to this particular investigation. And I'll note that, thereafter, he says that he informed both Mrs. Clinton and the President of the gist of this conversation.

Now, would Mr. Ickes go to the President and to the First Lady and inform them of this, if it didn't happen?

Mr. ALTMAN. Senator, it is false. The Office of Government Ethics, the independent Office of Government Ethics evaluated that. That's not a Clinton body. That's an independent Office of Government Ethics, and it concluded that no nonpublic information was provided.

Senator D'AMATO. Let me say——

Mr. ALTMAN. Just a moment, Senator.

Senator D'AMATO. I don't want to hear about the Office of Government Ethics—that's not a responsive question, to have him come forward and quote the office of public integrity. I mean——

Senator DODD. It's just an answer. You may not like the answer. It's his answer.

Senator D'AMATO. OK. Fine.

The CHAIRMAN. It's——

Senator D'AMATO. I'd like to make one other point and it will take 10 seconds. This is the sworn deposition of Mr. Ickes, Deputy Chief of Staff. I want you to know that. He said it under oath.

Senator SARBANES. Let him give his answer.

Senator D'AMATO. You disagree.

Mr. ALTMAN. I know it's false. I'm sure Mr. Ickes recollection is just different. I know him to be a man of honesty. I know he's honest, but his recollection is wrong.

The CHAIRMAN. You're very clear on that. Senator D'Amato has read this into the record. Obviously, Mr. Ickes gave this in a deposition under oath. He'll be here so he can be quizzed on that. I think we've laid out both sides of it, and that's about all we can do at this point.

Senator DODD. Well, Mr. Chairman, I think it's my time.

The CHAIRMAN. Senator Dodd.

Senator DODD. I'd point out it isn't just a question of these two individuals disagreeing. The fact is that Ms. Kulka disagrees with Mr. Ickes. Ms. Hanson disagrees with Mr. Ickes and they were there at the meeting. We've had testimony from Mr. Nye today as to what Ms. Kulka said to Mr. Altman on February 1 regarding how these matters would be handled and whether or not the cases could be brought before the 28th. Why in the world with all of these people agreeing with what was said the day before, why would Mr. Altman sit down at a meeting with people in the White House and tell them something completely different than a bunch of people heard the day before? We have heard from Mr. Ickes and he can comment on it, but as of this hour, after 40 hours of hearings in this room we have heard from at least 3 or 4 different people who substantiate what Mr. Altman has said. That has value and I think it ought to be clearly stated.

Let me tell you something regarding this. We've spent a lot of time focusing on this hearing on the 24th. I think it's important, but it also digresses, in my view, quite a bit from what the central theme ought to be. Let me say I'm just speaking for myself here. I've read over the testimony.

Frankly, I think you have to start back in the middle of page 63 where our colleague from New York starts talking about and leading up to the questions about the RTC, the counsels, and the statute of limitations and so forth.

Now, I was not at the hearing, so I'm just reading this. I don't have any doubt in my mind that the Senator from New York, and my friend, Al D'Amato, has a very clear understanding of what he thinks he was asking, particularly the line where it ends from our colleague, Senator D'Amato says, "oh, oh. Ickes is in it" and then it goes down and he says, "or Mrs. Clinton's interest or anyone else that you were aware of as it relates to the matter that you went to brief them on."

It seems to me that's an operative clause when it comes to the then series of questions which is the subject of the dispute here as to whether or not the issue of the recusal meeting on February 3 should have been included in your response. In your mind, that meeting was about the statute of limitations and the procedures.

Now, there's a debate and discussion as to whether or not you ought to have included the issue of the recusal, but I can see where two well-intentioned people who were sitting there, responding and answering questions, came to a different point of view. That's not the most bizarre thing that has ever happened at a congressional hearing.

I think we've heard from the witnesses but to dwell on this particular point as if it was somehow central to this whole case is to digress, in my view, from what the central theme is. Let me lay a background here to review the bidding a little bit.

We've had an investigation on the illegal questions by Mr. Fiske, a Republican prosecutor, rave reviews given to him at the time he was named. We've had the Office of Government Ethics who was under Mr. Stanley Potts. He, an appointee of the previous Republican Administration, declares that ethically, there are no problems here.

We have heard Mr. Foreman, a Republican appointee who was kept on by this Administration, declare that there were no ethical problems. Mr. Stephens stays on even though the White House allegedly exercised some influence to change that.

You go to Ms. Kulka, who he gives the total authority to in these matters. She states that unequivocally here. She's not a partisan in all of this. She could have said look, he didn't say that to me. He gave her all the authority to handle these matters. She states that she had plenty to work on and had no problem with February 28. We have Mr. Altman recusing himself, admittedly today he should have stuck with the decision when he made it in the first place but didn't, and gets involved in a discussion to hang around for a while. But as far as I'm concerned, he made that decision to recuse himself early on.

Then you've got Larry Simons. I know Larry Simons. In fact, you called me about Larry Simons—

Mr. ALTMAN. Yes, sir.

Senator DODD. —and asked if I would support him, a Republican. I know him. Now, in whose interest is it to appoint a Republican to head up the RTC if you're worried about this? The people watching this and listening to this may not understand all of these debates between Committees but there's a backdrop here.

When you have the overall demeanor, all of these other questions, set up something we ought to be cognizant of and aware of. We're trying to draw the conclusion of whether or not the Department of the Treasury, Mr. Altman in his capacity as the head of the RTC, the White House and others were trying to derail these criminal referrals and the civil suits. That's the issue we're driving at, did someone at the White House try and derail this whole operation? If you're looking at a state of mind, if you will, taking a look at the overall attitudes that are being reflected by decisions being made in the office, I don't see as a backdrop of this evidence, that kind of demeanor.

Now, as to your state of mind in the February 2 meeting. I think that's important.

I also think it's important to know what the state of mind was at the White House, Senator Domenici's questions. We're going to have Mr. Nussbaum here. We're going to have all the White House people here to ask them whether or not they were pressuring. You said you didn't take it as pressure. Clearly, they wear a different hat than you do in their particular setting. I'm satisfied with your answer, that you didn't—you wish you made the decision to recuse yourself earlier. Tomorrow and the next day we'll hear from the White House people and that will be a legitimate question. While



to insist that this witness understand what Mr. Nussbaum was thinking is a legitimate question, at some point you've got to let up on it. It's not his responsibility to know what the state of mind was of Mr. Nussbaum.

I say that because I've listened to you for almost 40 hours, over the last 3 or 4 days, tantamount to what would be 10 days of hearings here. I think we need to remind ourselves of what we're driving at here, what the issue was as a result of the resolution being adopted, that caused this Committee to convene and discuss these issues. That is whether or not this White House, these high-ranking officials, did anything to derail, disrupt, to throw off the criminal and civil matters affecting the Madison Guaranty company.

I'd like to get back on track with those questions, if we could, instead of going off ad nauseam, in areas where honest people can disagree what the intent was, what the intent behind the question was. I say that and let me ask one question that comes down to the whole issue that has to do with the statutory authority because at some point we're going to make, I hope, some legislative recommendations as well. I think we can stipulate here that most of us agree that this idea of wearing two hats which by law either you or Secretary Bentsen had to do, created a lot of the situation that we're in tonight.

I wonder if you would comment as to whether or not you have any suggestions or ideas as to how in the future we can avoid this in some other Administration so we're not meeting again to discuss what someone said at a hearing, what someone intended by a question, what someone intended by an answer, and avoid the kind of problems that, I think, this legislative Catch-22 has caused us to be in.

Mr. ALTMAN. Well, Senator, our intentions were honorable in trying to take up responsibility for the RTC and trying to make some improvements in it, and I believe that we did. But I agree with the thrust of your question. I think it would be better in the future if there were a brighter line or some wall between the institution which is independent of another institution. I agree. I think these hearings alone demonstrate that all kinds of appearances issues can be raised and controversies arise that would not happen if there were a wall.

Senator DODD. Who should have taken that job? How should we deal with that? Should it be some independent person that has not been confirmed by the Congress or the Senate. That was one of the requirements, that the person who took the job had to have been confirmed by the Senate?

Mr. ALTMAN. Yes. Well, of course, one of the things we could have done would have been to leave it vacant until Congress confirmed a permanent nominee. We could have done that and perhaps we should have. We did go forth pretty promptly and nominate our candidate and that candidate's nomination did not succeed and at the end of the year he withdrew. So one option would have been just leave it vacant until a permanent Chairperson is confirmed for that precise job.

Senator DODD. Let me ask you this: I kept on asking this yesterday. Ms. Hanson said she was basically a detailee, of the RTC even

though she was General Counsel for the Treasury. It was never clear to me when she got that job as a detailee.

Did you at some point say to her when I'm talking to you about the RTC, you're General Counsel for the RTC. I mean, at what point did she know she was RTC or she was Treasury? It seems to me she was never clear what job she was operating in.

Mr. ALTMAN. Senator, I just asked her to help me out. There was no formal designation. I didn't go through the process one can go through, the formal process, to actually detail someone from one place to another. I just asked her to help me out.

Senator DODD. Is there statutory authority somehow? She was talking about statutory authority that gave her the right to do RTC functions.

Mr. ALTMAN. I believe that FIRREA, the law FIRREA permits, in this case, the Treasury to—it says here, “the RTC is authorized to utilize the employees of the FDIC or, on consent, the personnel of any other Executive Department or Agency. As interim CEO of the RTC, Mr. Altman exercised all of the powers of the RTC and thus was authorized to use the time of Treasury personnel on RTC matters.”

Senator DODD. So that's the authority?

Mr. ALTMAN. Yes, sir.

Senator DODD. I might just ask you at some point here to submit to us, to this Committee a more formal set of recommendations on how we avoid this kind of mess in the future.

Mr. ALTMAN. Yes, sir.

Senator DODD. I yield back my time.

Senator DOMENICI. Senator Dodd, do you have a couple of seconds? Could I just clarify something and ask you if you knew this: A lot of comments have been made about the Office of Government Ethics and their report. It's my understanding that they only spoke to employees of the Treasury Department. Now that's a very big difference because this whole dispute is a dispute between what Treasury Department people say and what White House people say. So with reference to that, it does seem to me that the conclusion is a conclusion about the Department of the Treasury, but not about the myriad of people players involved in this. Can somebody tell me if I'm right or wrong?

Senator DODD. Well, I don't know. You may be right. All I'm saying is that because when I first heard about this, it sounded to me like it was somewhat like a Treasury operation looking at itself and I'm a little suspicious when people look at themselves. I felt much better about it when I was told that it was an independent operation. I think I'm correct in that.

Mr. ALTMAN. Yes, Senator.

Senator DODD. And two, the person who heads it was a Republican appointee who's been maintained and kept on the job as I understand it. These are not people necessarily who are trying to protect anybody or cover anybody. Now, maybe, their mandate should be broader, to look at other people and that may be the case, but they struck me as being pretty straightforward honest people who don't have an axe to grind or to cover anybody's act up. If they thought something was done, I think they'd tell us.

Senator DOMENICI. I didn't say that.

Senator DODD. My point is, I think we've got to understand who these people are.

The CHAIRMAN. Well, let me just say to the Members here several people are seeking recognition. Senator Kerry is, Senator Dodd is finished. By rights, it's supposed to rotate to this side. Is it a parliamentary inquiry that you're making?

Senator KERRY. It's not so much a parliamentary inquiry, Mr. Chairman, as it is an answer to the question that was asked by the Senator from New Mexico.

The CHAIRMAN. Senator Gramm is next in the order. Would you be willing to yield for a moment—

Senator GRAMM. Not on my time, I wouldn't, I would be willing to withhold and let him go ahead.

The CHAIRMAN. He's prepared to withhold, Senator Kerry. Why don't you make your point.

Senator KERRY. The point I was going to make, I simply wanted to answer my friend. I would think that he ought to take—he may not have had the time yet and I'm sure he will want to read this and will, but the report from the Office of Government Ethics makes it very clear that as to the meeting in February that there was no disclosure of nonpublic information in any way that was a violation, No. 1; and No. 2, that there was no furtherance of anybody's own interest or that of another. And therefore, there was no ethical violation as to that meeting.

In addition to that, with respect to Mr. Altman personally—and this is by name, this is not generic—it found that as to the meeting with Mr. Ickes on the discussion with respect to recusal there was also no violation.

Now, in fairness, it did leave open a question with respect to Mr. Altman's role on September 29 simply because there wasn't adequate information on the 1993 disclosure by Ms. Hanson. It did find the disclosure by Ms. Hanson did not violate the rules.

You have an independent ruling as to three tiers with respect to Mr. Altman and Ms. Hanson, but there is one open question remaining.

Senator SARBANES. Mr. Chairman, Senator Domenici.

Senator DOMENICI. Yes, sir.

Senator SARBANES. To respond very specifically to your question because I have here now the two volumes from the OGE. Apparently they did take depositions of a number of the White House people including Eggleston, Gearan, Ickes, Lindsey, McLarty, Nussbaum, Sloan, Stephanopoulos, and Williams, so they're in these volumes and they did take their depositions.

Senator DOMENICI. I was misinformed, Mr. Chairman.

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Mr. Chairman, I don't want to spend any time on this or ask a question on it, but since it's been raised I want to read two statements from this so-called ethics report. One is—

Senator DODD. What do you mean, "so-called ethics report"?

Senator GRAMM. Well, if you wish, this ethics report. OK. Let me read the statements.

"We believe that you could conclude that the—

Senator D'AMATO. How come you get to be so outraged all the time?

Senator GRAMM. Let me just read two statements. I'll get on to my questions.

"We believe that you could conclude that the appearance principle was not violated by Ms. Hanson's disclosure." That is the lowest standard that you could set. You could conclude that it wasn't violated. They don't conclude it wasn't violated. They just say you could conclude.

Second, they say "we feel there is insufficient information to enable us to provide you with any further analysis of Mr. Altman's participation in this disclosure if any." If this is a fig leaf, it's a mighty small fig leaf.

Now, let me go back to Mr. D'Amato's point and make several quick points that are important. If the issue of whether or not Mr. Altman told this Committee something that was not true is not relevant, I wonder what is. Whether you are a Democrat or Republican, no matter who your loyalties are to, it is a relevant issue here as to whether a witness before this Committee tells the truth.

We have established here at several different points that, in fact, the truth was not told to this Committee. Since Mr. D'Amato speaks in a strange dialect that some of us have trouble understanding, maybe it wasn't clear what he was saying, but for the rest of the country, let me translate.

What he was saying is this: He asked a question. Did anyone request this meeting to which Mr. Altman referred? Mr. Altman is on the record saying, and I quote, "I requested the meeting." Then Mr. D'Amato says, "was there any other meeting that may have been requested?" To which Mr. Altman says, "no." Now, it is true that Mr. D'Amato's next statement, which Mr. D'Amato said in a question, was, "there was no other meeting that you were aware of that the White House Counsel requested?" The point is, that Mr. D'Amato never uttered that word about the White House until you first had said, "no." So unless you have the ability to look into Mr. D'Amato's mind, you could never have known that he was going to say anything about the White House, which is your change in the question. That could not have been known by you in advance.

But even if it could have been known, even if your mental powers allowed you to look into Mr. D'Amato's mind, then Mr. Domenici subsequently asked you directly, when you kept using this evasive term about "substantive contact"—and we're not talking about meetings here, we're talking about contacts. And Senator Domenici says you're not suggesting there were any other contacts. He's not saying anything about the White House setting them up or whoever was setting them up. And you say, "no."

That is why Mr. D'Amato's statement is very, very important. I submit that we are wasting our time, and we're wasting the air waves of the Nation, if it is not relevant when a witness tells us something that is not so.

Now 2 hours ago when I had the floor——

Mr. ALTMAN. May I respond to that?

Senator GRAMM. If you would do it very briefly.

Senator DODD. If my colleague would yield just on the one point, I never said it wasn't relevant. My point simply was that I thought two people could draw different conclusions.

Senator GRAMM. They couldn't on three occasions, though, Chris. On three occasions, there was a point blank question. But I don't yield. I've got some things that I want to develop in the short time I have. I'm sorry, I love my colleagues. If, Mr. Altman, you could give me a short answer.

Mr. ALTMAN. Senator, you said I think that we've now established that the truth wasn't told. I respect your judgment, but that is not—I do not believe that. Let me say two quick things: First of all, I used the term "substantive contact." I meant that in relation to the RTC investigation of Madison. That is what I meant. You may not agree with that definition but that is what I meant.

Second, my response to Senator Domenici may not have been a great response, but I said I'm not counting certain trivial or incidental contacts. That's what I did say.

Senator GRAMM. Meeting people in the hallway you said. It was not that it wasn't a great response, Mr. Altman, the point is that it was not the truth. That is the problem.

Mr. ALTMAN. No, Senator, you're wrong. My response made quite clear that there had been other contacts. I don't think you can read my response any other way than that.

Senator GRAMM. I'll read it exactly. You keep going on with this evasive language. And Senator Domenici says, "Well, I assume we are not arguing there that you had—you are not suggesting you had more than one are you?" That's obvious. Did you have more than one meeting? He's not saying, "substantive meeting." In fact, he is challenging your evasive term, to which you say, "No." Now what part of no don't you understand?

Mr. ALTMAN. I then go on to say, "I'm not counting——"

Senator GRAMM. You go on to say, "I am just saying that if you run into someone in the hall, if you see that thing in the paper this morning, I'm not including that." You're not suggesting the meeting on November 3 was running into somebody in the hall, are you?

Mr. ALTMAN. What I was trying to say, Senator, was that——

Senator GRAMM. Are you saying that the February 3 meeting was running into somebody in the hall?

Mr. ALTMAN. What I was trying to say, Senator, was that I wasn't counting contacts that I consider incidental, but let me just say——

Senator GRAMM. Incidental? You call up and ask somebody to let you come over to the White House to talk to them, and call that incidental?

Mr. ALTMAN. Had nothing to do with the RTC investigation of Madison.

Senator GRAMM. I want to stop, because I want to get to my questions.

Mr. ALTMAN. I do want to say, Senator, if I misinterpreted the question, I do apologize, I do.

Senator GRAMM. No one with your background and education and intellect could have, in my opinion, misinterpreted that question. Both of us know something about securities law. You made your living, and a good living, at it, I might say. Securities law requires full disclosure of anything that a reasonable man would consider material in making a decision. A material omission of fact is

just as much a violation as a misstatement. That is the principle that governs a profession you have been in most of your life.

Now I want to ask my question.

Mr. ALTMAN. You remember, of course, that Mr. Fiske looked into this.

Senator GRAMM. Two hours ago I tried to talk about this meeting that you asked for on February 3. I said that it appeared to me from sworn testimony that Maggie Williams said you called her to set it up. You said that you called Mr. Ickes to set it up. It seems to me that maybe the logic is that you would have called Mr. Ickes, because he is the Deputy Chief of Staff, whereas Maggie Williams works for the First Lady. So maybe you were right on that, but I want again to read what Maggie Williams says you said.

"Well, Roger called me and he said to me, I've decided not to recuse. And he said I want to tell some people in the White House that. And I mean I remember thinking to myself so tell them. And then he said I'm on my way to a meeting, but I would like to get a few people together and tell them and I thought OK. And he said could you grab a few people and get a few people or call a few people and I said OK." Then she goes on to say that she called Harold, George, and Eggleston.

You remember that you set this up with Ickes, and I guess that makes more sense, because he worked for the President and the White House, not for the First Lady. Where was the meeting?

Mr. ALTMAN. The meeting was in the West Wing. I can't remember precisely where it was.

Senator GRAMM. The meeting was in Maggie Williams' office, and we have four sworn statements to that effect.

Mr. ALTMAN. Senator, I believe I called Mr. Ickes. I believe that firmly, that's my best recollection and I believe it to be true.

Senator GRAMM. Can I ask you a question? Let's assume that Maggie Williams is not telling a falsehood, and let's assume that, in fact, if it was in her office, the odds are probable that she's right and you're wrong. Most people don't—I don't set up meetings in Mr. D'Amato's office, but let's just assume she's right. Why on earth would you call the Chief of Staff of the First Lady of the United States to talk about this issue?

Mr. ALTMAN. Senator—

Senator GRAMM. What relevance, what possible relevance, could this have to her?

Mr. ALTMAN. Senator, first of all, all we're talking about is how the meeting came about, not what was at the meeting.

Senator GRAMM. I'm sorry, please, just answer my question. What possible relevance could anything you have—could have said to her about the RTC or recusal, what possible relevance could it have to her?

Mr. ALTMAN. Again, Senator, I believe I called Mr. Ickes and I had this conversation primarily with Mr. Ickes. Let me point out to you, you have sworn testimony from the participants in the February 2 meeting, some of whom say the meeting took place in Mr. Nussbaum's office and some of whom say it took place in Mr. McLarty's office.

Senator GRAMM. Well, I don't have any such disputes on this particular meeting. I have all of these different—

Mr. ALTMAN. I'm just pointing out people can recollect these things differently. I don't dispute the essence of the meeting. I just happen to think I called Mr. Ickes.

Senator SARBANES. Senator Sasser.

Senator SASSER. You know, sometimes I think, Mr. Chairman, we could save a lot of time here if we can excuse the witnesses and let the Senators make their speeches and read the record and give their interpretation of the record. I think that might get through these hearings faster and don't even need the witnesses to make our points.

Let me see if I can be brief. The hour is late and Mr. Altman has been sitting in this Chair now, for what, almost 8 hours.

Mr. Altman, at the February 2 meeting—and this is the big meeting in Mr. McLarty's office—

Mr. ALTMAN. Yes, sir.

Senator SASSER. —Did Mr. Nussbaum or anyone else make any effort to influence the RTC's consideration of bringing civil litigation on the Madison question?

Mr. ALTMAN. No, sir.

Senator SASSER. Well, let me ask you this: Are you aware of any effort by anyone in the Administration, on the outside of the RTC, to impede the RTC from submitting its criminal referrals to the Justice Department on this matter?

Mr. ALTMAN. No, sir.

Senator SASSER. Are you aware of any effort by anyone in the Administration, outside of the RTC, to influence—are you aware of any effort by anyone in the Administration to impede the RTC from submitting the criminal referrals to the Justice Department?

Mr. ALTMAN. No, sir. As you know, I don't believe there's a shred of evidence to the effect that the criminal referrals were delayed, compromised, altered, or affected whatsoever.

Senator SASSER. The criminal referrals were, in fact, made to Justice?

Mr. ALTMAN. Yes, sir.

Senator SASSER. Now have you read these criminal referrals?

Mr. ALTMAN. No, sir.

Senator SASSER. Have you read any of the substantive papers on which the referrals were based?

Mr. ALTMAN. No, sir.

Senator SASSER. To your knowledge, did the RTC handle the Madison referral any differently than the way it handles other referrals?

Mr. ALTMAN. No, sir.

Senator SASSER. Now, Mr. Altman, Senator Dodd, I thought, did an excellent job sort of giving some perspective to this whole controversy here, but when you became Interim Chief Executive Officer of the RTC on March 16, 1993, how long did you expect to hold that position?

Mr. ALTMAN. Only until the Administration's nominee for permanent chairperson was confirmed, and I thought that would be promptly and then I could leave after a short time. As you know—I shouldn't say "as you know"—I didn't want the job. I knew it was a—

Senator SASSER. The RTC was a bag of worms, right?

Mr. ALTMAN. I knew that.

Senator SASSER. And not many people wanted to be associated with the RTC.

Mr. ALTMAN. But I thought it would be pretty quick and we did get our nominee up pretty soon after that, but it ran into trouble and didn't work.

Senator SASSER. All right now. During this period in 1993, how much time were you spending on the business of the Resolution Trust Corporation?

Mr. ALTMAN. We typically had biweekly staff meetings.

Senator SASSER. Yes, about 4 hours a week, I think you said.

Mr. ALTMAN. Three or 4 hours.

Senator SASSER. Three or 4 hours a week. Now during this period of time, I remember seeing you here in the Capitol on a number of occasions when the Administration was getting its budget approved which took up a large portion of 1993.

Mr. ALTMAN. Yes, sir.

Senator SASSER. I guess what I'm trying to do is to get an assignment of the priorities of your time vis-à-vis the RTC during this period of time. In other words, did being interim CEO of the RTC, was that a particularly large job as far as you were concerned or was it a particularly high priority on your scale of priorities?

Mr. ALTMAN. I tried to take it seriously, but I had other priorities that were senior to that one. They included the economic plan. They included the U.S.-Japan negotiations, they included the evolution of the Health Care plan, and I took 6 weeks or so off at the end of the summer last year to work full-time on the economic plan. I moved over to the White House in the so-called war room and I worked full-time for 5 or 6 weeks on it. During that time I had nothing to do with the RTC. I couldn't—

Senator SASSER. Well, I just want to sort of put this in perspective. In other words, some people viewing these proceedings might come to the conclusion that you were full-time working as the acting CEO of the RTC, but the truth is you were devoting no more than 3 hours a week to it, and you had all these other balls in the air simultaneously?

Mr. ALTMAN. Yes, sir.

Senator SASSER. Mr. Chairman, I want to yield what time I might have remaining to Senator Kerry if that's permissible.

The CHAIRMAN. Senator Kerry.

Senator SASSER. Thank you, Mr. Altman.

Senator KERRY. Thank you. Who I understand you yielded some time. Thank you very much. I thank him for that.

Mr. Chairman, I guess I might say that the last series of questions raised by the Senator from Tennessee sure raises some questions about the RTC itself and that's not what we're here for. But I just want to say it is not comforting to learn that the acting CEO was spending only a few hours and had not enough time to pay attention to it and that raises a separate series of question that this Committee, and I, and some others have been deeply concerned about with respect to recoveries and the direction of this can of worms, as it's been called.

I want to go into a couple things, if I may, very quickly. I think it is obviously appropriate and within the scope that the Commit-



tee's instructions from the Senate which is to conduct hearings into whether improper conduct occurred with respect to contacts, to certainly determine whether there was improper conduct in those contacts with respect to testimony before this Committee. I agree with my colleague it's not the center focus or the whole focus. It's one of them, but I would ask my colleagues to be really fair in assessing the answers of the witness and the realities of this transcript as you read it. I think there are questions, very serious ones still, about the February 3 meeting and the lack of statements and the contrary evidence as to who knew about that. I think there are questions there, and we still need to make judgments about it.

But I also think it is fair to the witness to read his answer to Senator Domenici in its full context. And to understand that he was talking about a substantive meaningful contact. He was—you can argue the February 3 meeting falls into that and I'm not going to discuss that now, but you cannot argue that the Maggie Williams' notation falls into that. And it seems to me that Mr. Altman has fairly suggested in his answer at the time contemporaneous with the question saying when you asked Senator Domenici, you are not suggesting you had more than one, are you, which was specifically on the subject of RTC incidentally, not on the subject of recusal. He would then answer no, I'm just saying if you run into someone in the hall, if you see a thing in the paper this morning, I'm not including that.

Now, in my judgment the Maggie Williams' communication certainly falls under that kind of casual encounter at a separate kind of event not calculated or scheduled for any purpose except other things and he learned something. So I think we have to be fair in what we're going to attach here. I think it is fair to raise questions about the February 3 meeting.

I think it is certainly fair to raise another set of questions about the recusal, and I think the Senator from New Mexico and I share a concern here about what may or may not have been going on. Now, I would simply like to start by saying—and I hope my colleagues will agree with me here—the recusal is not an important issue for what did happen because nothing happened. And so when Mr. Altman says it was moot, he is, in fact, correct as to any action to interfere with the investigation.

His recusal had no impact one way or the other on what did happen or is happening today with the investigation. The only issue before us and it's a legitimate issue and it goes to the question of improper conduct is how the issue of recusal impacts the question of what might have happened or what was in the process conceivably of happening with respect to the White House on this issue. So I conclude your failure to recuse certainly didn't affect the case.

But now you have repeatedly said, Mr. Altman, and I'm truly puzzled about it and I want to explore this and what I can't finish in this round I will finish in my own round. When you went to the—you have repeatedly described this as a hard decision, and obviously it's characterized as a hard decision because Josh Steiner's diaries characterize it as that. You repeatedly have said it was a hard decision. Why was it a hard decision, what was hard about deciding to recuse yourself?

Mr. ALTMAN. First of all, I had been made aware that there was no legal requirement to recuse, that there was no ethical requirement to recuse, and the recusal decisions typically are taken when a matter is ready for decision which this one wasn't. So it's not required legally, it's not required ethically, and it's not timely either. I think, Senator, the Office of Government Ethics makes clear why this is a hard decision. It is implicitly critical of me for having done it. Now, I just think it's hard to know when whether you have a duty to serve as the Office of Government Ethics Report suggests or whether you ought to recuse as they say because it's convenient——

Senator KERRY. But you had already decided not to serve. Everything you have——

Mr. ALTMAN. They mean serve—well, I think they mean to serve in a legal sense.

Senator KERRY. You had decided not to serve in any sense you were not going to make a decision. You were not going to receive information. You were not going to affect the case. You had decided effectively, as you called it yourself, a de facto recusal. Why, therefore, was it hard to go beyond a de facto recusal and do a real de jure recusal? What was hard about that?

Mr. ALTMAN. It was just a purely personal matter. It seems to me when you are told you don't need to do it legally, and you don't need to do it ethically, and it's not timely to do it anyway, you do say to yourself how important is it that I do it. I wouldn't have asked the advice that I asked from several different people if I had my mind made up. I didn't, and that was the day before February 2 that I asked for that advice.

Senator KERRY. My time is up. I'm going to put that into a larger context.

Mr. ALTMAN. Again, given the chance to do it all over again, I would have recused myself right off the bat.

Senator KERRY. I understand but I want to get to this because I think it's central to why we're here and I will come back to it in my next round.

The CHAIRMAN. Senator Bond.

Senator BOND. Thank you, Mr. Chairman.

Mr. Altman, we have gone past this question a number of times. I asked you who told the White House of the criminal referrals and you stated that no one in the RTC to your knowledge had done so.

There have been questions about correcting the record. As far as I can tell, you have not had an opportunity to correct the record. What, for the record, is the proper answer to that question I asked you on February 24?

Mr. ALTMAN. Senator, as you know, I said not to my knowledge. That was 100 percent truthful at the moment I said it. I received a call from Mr. Podesta. He said what about those fall meetings. I said I never heard of them. He confirms that I said that. I then go through the exercise I mentioned to you in terms of calling in Ms. Hanson, Mr. Steiner, what about these meetings. They didn't say, oh, you knew about them, didn't you, they didn't say that.

I then called Senator Riegle which I thought was the right thing to do and I called you, which was the right thing to do. I say I just learned about them, I want you to know that because you, Senator

Bond, had asked me the question. And I'm immediately going to amend the record and I did. I prepared a letter with the help of others and Ms. Hanson approves the letter. Now——

Senator BOND. That's all the process, but your March 2 letter is not a full response. What is the response?

Mr. ALTMAN. I'm sorry, Senator, I might not be following you.

Senator BOND. In your March 2 letter, you said "I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to the handling of press inquiries." The fact of the matter is that Jean Hanson, General Counsel of the Treasury, advised the White House; is that correct?

Mr. ALTMAN. When I wrote this, let me explain to you carefully what had happened——

Senator BOND. You now have lots of additional information. I'm just trying to get the record corrected.

Mr. ALTMAN. Today I believe that's the case.

Senator BOND. Did she do so at your request or did she do so solely on her own initiative?

Mr. ALTMAN. She's used the term, as you know, that she feels I tasked her to that assignment. I don't believe I did. I don't believe I would have tasked her. I think I would have remembered if I did.

Senator, if I could say one thing, just personally to you, I've heard from a number of sources that you felt particularly misled about the communication I had with you that evening. I hope one of the things I've done here tonight, because I have a lot of respect for you, is to have explained to your satisfaction that when I called you and told you I just learned about those meetings, that was the truth.

Senator BOND. At the time you called me, Mr. Altman, I was willing to accept that. Since that time, having achieved the opportunity to have more information, I have some real questions about it. You indicated in your testimony today that, when you gave that first answer to me, no one had contacted the White House to your knowledge. You turned to Ms. Hanson and got a confirmation of the accuracy. When you turned—you said at that point she confirmed that there had been no advice given to the White House. You further stated that Ms. Hanson precleared the letter——

Mr. ALTMAN. Yes.

Senator BOND. —The letter that you sent to Chairman Riegle on March 2 was precleared by her.

Mr. ALTMAN. Yes, that's my understanding and I've been told by at least one person who witnessed it that that indeed is confirmed.

Senator BOND. And then you state in your testimony today that it was Mr. Podesta on, I thought it was March 1, but you say here on March 2, Mr. Podesta was the one who told you of the two other meetings?

Mr. ALTMAN. Yes, sir, he did.

Senator BOND. Now, it appears that you have been badly misled by Ms. Hanson. She misled you, according to your testimony, when she confirmed that the answer you gave me was correct in that there was no advice on the criminal referrals given to the White House; is that fair?

Mr. ALTMAN. I'd like to put this in a moment's worth of perspective. Ms. Hanson, herself, I believe, said yesterday that her own recollection was refreshed after this March 2 letter and that the Q's and A's, I guess they were, which she prepared which said that I hadn't asked her to go to the White House, indeed, were wrong as she thought about it more.

So extrapolating that, I'm sure when she confirmed my answer sitting here that she did so honestly. I know Jean Hanson, she is a very honest person. And she recalled something different at a later time, I guess.

Senator BOND. Well, if Jean Hanson really did act on her own and if she, as you've stated today, misled you in confirming your answer to the question—

Mr. ALTMAN. Senator, I don't mean to say that she misled me, I don't mean to say that. I think that she believed what she said was correct.

Senator BOND. Then we have her testimony and your testimony. And what we're faced with—

Mr. ALTMAN. But, Senator, when you asked me a question—I really want to be as strong as I can on this. When you asked me the question, I gave you my answer, not to my knowledge. I turned to Ms. Hanson, you saw it on a tape, and she confirmed it. Now I think if you look at the tape—

Senator BOND. You have stated that's what's happening, we could not tell. You have stated that's what's happening.

Mr. ALTMAN. I believe that's what occurred at that time. But I'm still concerned that you're not sure whether I answered you straight up.

Senator BOND. That is correct.

Mr. ALTMAN. I don't know what I can do more than I've said today to assure you of that.

Senator BOND. We have to accept one of two scenarios. Your testimony and the clear direction that you're moving in, is that Jean Hanson told the White House on her own for her own reasons that you did not know about it, that you were not involved in it. And if that is the case, then I would have expected that your letter of March 2 would have identified why this answer had not been complete and that it was Ms. Hanson who had moved to contact the White House on her own.

On the other hand, if we accept Jean Hanson's version, she said that it was done at your direction and her testimony is corroborated by the statements of Bill Roelle who said that he advised you, and you told him to advise Jean Hanson. And in his presence, you told Jean Hanson to tell Jack, Bernie, and the Secretary.

It is also consistent with the information that we have from Mr. Sloan and Mr. Nussbaum and frankly, if we accept that scenario, then that indicates that you not only did not tell us the truth, but were attempting to cover up the conveyance of that information to your very close ally in the White House who was mentioned in the criminal referral and who's campaign may have been involved.

It appears to me this is the choice that we have to decide: Who is telling the truth? There are two very different approaches, two very different scenarios.

Mr. ALTMAN. May I respond to that? Senator, I said earlier and I want to repeat because it seems to be getting misinterpreted. I disagree with Ms. Hanson's recollection, but all we're talking about here is different recollections. My statement to you on March—excuse me, February 24 was true. There is a tape that essentially shows that she agreed with me. She precleared my letter to you. I just don't understand how you can conclude that I was somehow not telling the truth as I believe it to be.

Senator BOND. You stated in the March 2 letter, "I've learned today of two conversations which did take place between Treasury staff and White House personnel in this matter. My information is that both related to the handling of press inquiries." In the letter on March 3, you expanded the record to state that no nonpublic information was provided to representatives of the White House.

On March 11 you stated that there was no substantive discussion of the case itself and it only addressed generic RTC procedures. On March 21, you mentioned the substantive communication, that the meeting at the White House related to procedural issues and you spoke with Mr. McLarty on the telephone and decided to recuse yourself on February 25.

These are the four letters that you sent to expand and amend your testimony.

Senator SARBANES. Senator Kerry.

Senator KERRY. Thank you very much, Mr. Chairman.

Mr. Secretary, did you intend, at any time, to make any RTC decision at all with respect to Madison Guaranty?

Mr. ALTMAN. No, sir, I did not, not with respect to the investigation or the case.

Senator KERRY. When did you decide that you would not do that?

Mr. ALTMAN. I never made any decisions at any time on any investigation or case.

Senator KERRY. When did you decide specifically that you would not be involved or was this generic, you were not going to be involved?

Mr. ALTMAN. That was generic.

Senator KERRY. But once you knew of the hot potato of Madison Guaranty, you were simply not going to be involved with that especially; correct?

Mr. ALTMAN. That's correct. I took the extra step of telling Ms. Kulka, this is your decision.

Senator KERRY. You intended to keep all hands off of Madison?

Mr. ALTMAN. Yes, sir.

Senator KERRY. You took specific steps to tell Ms. Kulka that that would, in fact, be the procedure?

Mr. ALTMAN. Yes, sir.

Senator KERRY. And did you, at any time, take any action with respect to Madison?

Mr. ALTMAN. Not with respect to the investigation or decisions on the case, no, sir.

Senator KERRY. And did you, at any time, pressure anyone with respect to the case or any decisions on the case?

Mr. ALTMAN. No, sir, I did not.

Senator KERRY. Did you intend, at any time, to watch over the investigation with some protective hand?

Mr. ALTMAN. No, sir.

Senator KERRY. Well, now in view of all of that when you went to the White House on February 2, you had already received advice from Secretary Bentsen to recuse yourself; correct?

Mr. ALTMAN. Yes, sir.

Senator KERRY. When you went to the White House on that same day, you'd received advice from Treasury General Counsel, Jean Hanson, to recuse yourself; correct?

Mr. ALTMAN. Yes, sir.

Senator KERRY. And you'd received advice on that same—by that same date from RTC General Counsel, Ellen Kulka, to recuse yourself; correct?

Mr. ALTMAN. I don't recall that. Perhaps she did.

Senator KERRY. Well, her testimony to us is you don't recall.

Mr. ALTMAN. I don't recall, but I know Ellen well, that would have been her advice.

Senator KERRY. You certainly recall that when you went to the White House on the 2nd you had made the decision in your own head to recuse yourself and, indeed, wrote it on your original talking points; is that correct?

Mr. ALTMAN. No, sir. First of all, I didn't write the talking points, Ms. Hanson did. Second of all, I believe that she added the point on recusal of her own volition and, I might say, I appreciated it. She wanted me to recuse myself and I think she added it as a prod that I do so. I brought the matter up in the February 2 meeting extemporaneously. It was not my plan when I called Mr. McLarty just the day before to bring that up. It just wasn't. And I did say I've been advised to recuse myself and I intend to take that advice and yes, I wavered and yes, I waited too long but I did take it.

Senator KERRY. I understand that, but I'm trying to get at what happened there and look at this issue of who wanted to have what happened because it's the only issue left as far as I'm concerned. I think we've explored a lot of the rest of this, but in your own head, you'd decided you were going to recuse yourself?

Mr. ALTMAN. Yes, I had.

Senator KERRY. And you went there to tell them, I'm going to recuse myself, but none of the people at the White House supported the notion that you should recuse yourself, none of those with whom you met at that moment; correct?

Mr. ALTMAN. Well, I've tried to reconstruct that meeting many times, as you can imagine. I don't believe Mr. Ickes—I don't believe Mr. Ickes said anything, at least, I can't recall that he did. Mr. Nussbaum did most of the talking. I thought he did all of the talking, but perhaps he didn't. I was certainly aware that he had a different point of view.

Senator KERRY. Do you remember Ms. Williams saying something to you to the effect it's already been read earlier, Roger, you're a person of integrity, you don't have to recuse yourself, you're going to take the recommendation of staff. So she gave you advice on it. She sort of said don't recuse yourself; correct?

Mr. ALTMAN. I don't remember that, Senator, but she may have. I don't remember that.

Senator KERRY. Well, you certainly remember Mr. Nussbaum?

Mr. ALTMAN. Yes, I do.

Senator KERRY. Mr. Nussbaum was agitated. He was described as being excited?

Mr. ALTMAN. Yes, he was.

Senator KERRY. What did he say to you specifically?

Mr. ALTMAN. First of all, I've known Mr. Nussbaum a long time. I like him a lot. He was being himself. He's a pugnacious guy.

Senator KERRY. What did he say to you?

Mr. ALTMAN. He first asked me some questions about who would then be in charge. And I said Ellen Kulka and Jack Ryan.

Senator KERRY. So he was concerned about who might be in charge?

Mr. ALTMAN. And I described who they were and what their back-grounds were and how long they'd been at the agency and things like that. That consumed several questions, that was the essence of the questioning he had.

Senator KERRY. What did he say to you, you should not recuse yourself? I mean, he argued with you that you shouldn't.

Mr. ALTMAN. No, I don't recall that he argued against my recusing myself. Again, no one said at that meeting don't do that, please don't do that, that's unacceptable. They didn't do that. Yes, Mr. Nussbaum conveyed in his way that he——

Senator KERRY. Well, I don't want to interrupt you, but I want to try to establish in the short time I have, they didn't say terrific, Roger, go ahead and recuse yourself, did they?

Mr. ALTMAN. No.

Senator KERRY. They obviously were agitated or upset or concerned and sufficiently changed your mind from all of the advice you had and from your own decision.

Mr. ALTMAN. Well, you're going to have testimony, I guess, tomorrow from——

Senator KERRY. I'm asking you tonight, they changed your mind; did they not?

Mr. ALTMAN. But I want to be very precise. I don't recall either Mr. Ickes or Ms. Williams having anything particular to say at the meeting. Maggie has said she said that, she may well have, I don't happen to recollect it. And what I recollect, and I do recollect it quite vividly, are the questions Mr. Nussbaum asked me. I do know that Mr. Nussbaum had a different point of view, yes. But I think——

Senator KERRY. I mean I'm not saying even that Mr. Nussbaum's point of view wasn't a legitimate one. It surprises me you don't remember him being concerned about the professionalism or the capacity of the RTC to run a fair investigation. That's a legitimate concern for somebody in politics.

Mr. ALTMAN. I don't mean to suggest that. He was excited. He wanted to know everything he could know, all of a sudden, having been confronted with this. And he jumped in, as he always does, and asked me a whole set of questions. He was excited, there was no question of that.

Senator KERRY. Is it fair to say he didn't want you to recuse yourself?

Mr. ALTMAN. At the end of the meeting, I think everyone understood a couple of things. One, that I was going to play no role in the case. Mr. Steiner's diary confirms that.

Senator KERRY. But you're not answering my question. I understand that. We've all conceded that you didn't play any role in the case, I understand that. I asked you is it fair to say that he didn't want you and he argued against your recusing?

Mr. ALTMAN. That's fair.

Senator KERRY. Josh Steiner, whom you know well, wrote in his memo that he thought you were under intense pressure from the White House and I will give you, maybe it wasn't intense pressure, he had some sense from you that you'd reacted to this meeting. At least that's the way he described it.

Mr. Nussbaum basically said according to his own testimony to us that you're not legally and ethically required, so you should consider whether or not to do so. He articulated to you that if you're not legally or ethically required to do so, the fact that you remain as head of the RTC provides "additional safeguards for professionalism and fairness." That was his view. Do you remember him saying that to you?

Mr. ALTMAN. It was right at that point in the meeting where I repeated what I'd said earlier, right at that moment, I think, at least, I remember repeating it before the end of the meeting. This is Ellen Kulka's decision, I'm not going to have anything to do with it. So I didn't agree with his assessment.

Senator KERRY. But you didn't say to him, therefore, I'm going to recuse myself. You said OK, I'll think about it, and you called him back the next day and said I won't recuse myself.

Mr. ALTMAN. I made clear that in the real world I was recused.

Senator KERRY. The problem is—I hope you understand it. To me this is just the whole problem here and I'm not—you can't prosecute an intention and we're not prosecutors. We're trying to make a judgment about what may have motivated this, what was at play, what happened here.

Now, I find it hard to understand how you could be persuaded by Nussbaum that your staying would satisfy his desire for steering the case clear of politics if, number one, you yourself were a political appointee, and number two, you genuinely were not going to be involved in the case.

Mr. ALTMAN. There is no evidence whatsoever, Senator, that that was how I was acting.

Senator KERRY. Well, can I ask you a really hard question?

Mr. ALTMAN. Sure. I guess that wouldn't be the first time today.

Senator KERRY. Were you trying to have the best of two worlds by keeping the White House happy in a sense that they were going to feel that someone was there that they could trust and there wouldn't be a runaway investigation, but at the same time, keep all the people on the other side of the fence happy by saying I'm not going to have anything to do with it, Ms. Kulka, you go ahead? You kind of, in a sense, curried favor with both parties.

Mr. ALTMAN. I don't think I left any doubt, Senator, and I don't think any of the attendees at the meeting have testified that I left any doubt, that this was Ms. Kulka's decision and whether I stayed there—

Senator KERRY. But you're not answering my question.

Mr. ALTMAN. I think I did answer your question.

Senator KERRY. I don't doubt you, Mr. Secretary.



Mr. ALTMAN. But you asked me, Senator, I think you asked, was I trying to keep them happy in the sense that my presence would somehow assure a more favorable decision? That was your question.

Senator KERRY. That's what Bernie said. Bernie Nussbaum said—

Mr. ALTMAN. That may be what he said.

Senator KERRY. —you remain as the head of the RTC this provides additional safeguards for professionalism and fairness because if people know they're reporting to somebody else and their judgments and fact-finding are going to be reviewed by that individual, I think they take greater care to be professional and fair rather than have the ultimate decision.

Now, you say, Bernie, I'm not going to have anything to do with this. I accept that. I don't think you did have anything to do with it, but all this fuss is about why, notwithstanding that you decided not to recuse yourself immediately and stayed on. So it leads everybody, all my colleagues across the aisle and everybody else, is sitting there saying why did he stay on. I'm sure that Ellen Kulka is saying—she did, she said why do you want to take the political hit. Jean Hanson said that. Secretary Bentsen said if it was me, I'd recuse myself.

So I'm left saying why does a smart guy like Roger Altman who understands the game decide not to do this when he himself had decided to do it, now suddenly he's not. And the only thing I can conclude is that you were somehow trying to please a number of different folks. You were trying to please the White House by making them feel comfortable and simultaneously totally be at arm's distance from this event so that—I mean, I don't know any other reason why and I'm just asking you so I can make a judgment.

Mr. ALTMAN. I said in my opening statement, Senator, I wavered. I found it a hard decision. Given the opportunity to do it again, I would have recused myself right at the outset, I should have. I should have, but I didn't engage in any improper conduct in that respect. I was undecided, or wavering. I don't want to leave any doubt about that.

Senator KERRY. I haven't labeled it improper. I haven't suggested that but it clearly has created a political firestorm. It may not be improper, but maybe this is the bad judgment that Mr. Cutler was referring to. I don't know. I mean, it's why we're here, I guess.

Mr. ALTMAN. What would go through your mind if you picked up the report of the Independent Office of Government Ethics and they, in fact, criticized you for having recused yourself and essentially supported Mr. Nussbaum's position, which is what they did?

Senator KERRY. I'd rather be on the safe side of—

Mr. ALTMAN. But I do. I think it illustrates this was—it wasn't an easy decision.

Senator KERRY. Well, fair enough. You've given me your sense of it and I've had a chance to probe you and I appreciate your answer. My time is up and I thank you.

Mr. ALTMAN. Mr. Chairman, could I ask for a break?

The CHAIRMAN. Yes. Let's take a brief break. Let me tell you where we are here, since we were through a situation somewhat like this last night. It's late in the evening, there are Members still

here that have questions that they want to ask and, you are getting questions from both sides of the aisle. I think, if your strength is sufficient, that it would be well to take the break and then stay on with this and try to finish up tonight, at whatever hour. I can't predict that as I sit here and—this was the same thing that we faced last evening and we do have other witnesses coming tomorrow morning who are scheduled, who are important, who have things to say, and questions to answer.

So my thought would be that we take another 10-minute break here and continue on.

Senator SARBANES. Mr. Chairman, could we get a sense of how much questioning Members have?

The CHAIRMAN. I think that's a very good suggestion.

Senator DODD. I think we ought to point out too—we've been here going on 7 hours. Mr. Altman will be a witness tomorrow in front of the House, I presume almost all day as well. And I don't know how much ground we want to plow over here, but some sense of decency about a human being going through all of this ought to be, at least, factored into the decision of how much more questioning we have to go through.

The CHAIRMAN. If I may say and I want to make sure everybody has a chance to be heard so they may cover the ground they have need to cover—

Senator GRAMM. Mr. Chairman, may I address that issue?

The CHAIRMAN. All right, then I'll make my statement after you.

Senator GRAMM. I have, of course, like everybody else, sat here all day. I have about 6 more major questions that I think are relevant, on ground that has not yet been plowed, in my opinion, or certainly has not been seeded. My suggestion is this: Why don't we let Mr. Altman go home in the name of human decency and also allow ourselves to go home, and why don't we go ahead with our hearing tomorrow. Let him go ahead with his hearing and then when our hearings are finished, let's have him come back.

The CHAIRMAN. Well—

Mr. ALTMAN. I'd prefer not to do that, Senator Gramm. If you want to stay here until 7 a.m., I'll be sitting right in this chair.

Senator MOSELEY-BRAUN. And so will I, Mr. Chairman.

The CHAIRMAN. And so will I, Mr. Altman. I think we've got to go ahead and conclude this. I will say in my own view, and I don't dispute at all the fact that Senator Gramm has 6 more areas that he wants to go over, but I do think we're reaching the point where a lot of what we're discussing is repetitive. In other words, I think a person coming along and reading the record will find that a lot of what has been said has been said more than 1, 2, 3, or 4 times. That's all right up to a point, but I think because those of us who are still here have been here the whole time, we should use the remaining time to break new ground and not just rehash where we've been. I think there is a point where it sort of borders on a trespass on what really is appropriate to the situation.

I want to stay here to get the information that we need and I will do so. I'll protect every Senator's right to get the information that we need. Mr. Altman—if you'll permit me to finish—Mr. Altman has said he'll stay here as long as it takes. I'm prepared to do that but I would just ask each Senator to take a look at that

question. We're all able to make that judgment and I'm sure we'll make good judgments in that regard.

Senator SARBANES.

Senator SARBANES. Mr. Chairman, perhaps we can do it during the break through discussion amongst ourselves and get some sense of how much time Members think they'll need. We'll have some sense then, when Mr. Altman returns, of what we're facing. We did this last night with Ms. Hanson. I think the end result of it was we were able then to move along with the hearing and finally bring it to a conclusion with everyone satisfied that they'd had a chance to make their inquiries.

The CHAIRMAN. Senator Bennett.

Senator BENNETT. As I said last night, I have 5 minutes roughly and they are all items that have not been discussed up until now. I'll forgo any comments on stuff that's already been said.

The CHAIRMAN. Senator Domenici.

Senator DOMENICI. Five.

The CHAIRMAN. Five minutes for you or 5 questions?

Senator DOMENICI. Five minutes.

The CHAIRMAN. Senator Faircloth.

Senator FAIRCLOTH. I think 5 minutes.

The CHAIRMAN. Five minutes will do it for you?

Senator Mack.

Senator MACK. I suspect that would be enough.

The CHAIRMAN. Probably 5 minutes for Senator Mack.

How much for you, Senator Gramm?

Senator GRAMM. It's hard for me to say. If we could get nice concise answers, I think it would be pretty quick.

Senator BOXER. I need 5 minutes.

Senator MOSELEY-BRAUN. Five minutes, also.

The CHAIRMAN. Five minutes here.

Senator DODD. That's about 7 a.m., I think.

The CHAIRMAN. No, I don't think it has to be. If Members say they can do it in 5 minutes, I think they'll make a good faith effort to do so.

Senator DODD. Senators can't clear their throats in 5 minutes.

The CHAIRMAN. Well, that's true, but last night we ran into this same situation and we got to this point, people were able to start to wind it up. And I trust to people to do that now. I think if Senator Domenici says 5 minutes, it will be pretty darn close to 5 minutes and Senator Bennett and the rest. So let's just proceed on that basis and we'll take a 10-minute break now. We'll resume in 10 minutes and then we'll see if we can't finish.

[The Committee stands in recess.]

The CHAIRMAN. The Committee will resume. Senator Mack of Florida.

Senator MACK. Thank you, Mr. Chairman.

Senator SARBANES. Mr. Chairman, I wonder if it would be possible to do—since most Members said 5 minutes, whether we could go to 5 minute rounds recognizing that Senator Gramm, of course, has more—maybe, he could do 10 minutes when he gets his round.

Senator MACK. I indicated I didn't think I would go over 5 but I do want to have the opportunity to go through with my questions.

Senator SARBANES. I'll withdraw then.

The CHAIRMAN. We'll stick with the 10-minute rounds and if you don't need that long, you can just yield the time back. Very good Senator Mack.

Senator MACK. Just before the break, Senator Kerry said kind of toward the end of his questions, Mr. Altman, you are not answering my question. And frankly, that's been a constant refrain from both sides during this hearing. My impression is that you have no interest in finding the truth or providing it to the Committee. I say that for many reasons, the latest of which is the conversation you had with Mr. Podesta on March 1, 1994. Mr. Podesta called you about a week after your testimony on February 24 and raised significant concerns about the accuracy of your testimony. There were several areas he thought you should correct. I'm going to focus on the omission of the fall meetings between White House Counsel staff and Treasury officials.

When Mr. Podesta brought up those meetings to you, you told him you didn't even want to hear about it.

Mr. ALTMAN. Senator, that's not what I said.

Senator MACK. I'll give you an opportunity to respond. I'm going to read out of the transcript here. Now, a whole group of attorneys down at the White House Counsel's Office thought you should correct the record and you didn't even want to hear about it. That's certainly the impression that we drew.

Mr. ALTMAN. That's not what I said, Senator.

Senator MACK. Members of the White House Counsel's Office undertook a very serious analysis of the accuracy of your testimony.

*Question:* What was the conclusion of that serious analysis?

*Answer:* The conclusion of the analysis was that in whatever capacity Ms. Hanson, or Mr. DeVore, or Mr. Steiner were over there, the Committee needed to be aware of these contacts.

*Question:* The testimony?

*Answer:* We thought this was very serious.

*Question:* The testimony needed to be supplemented in some way?

*Answer:* Yes.

*Question:* What did Mr. Altman say on March 1 when you either read or paraphrased that second question?

*Answer:* From February 24? (And he's referring there to Senator Bond's questions about contacts.) He said that—he again said it was an accurate statement. I said to him that there may be information that he would have to acquire to supplement this answer. He said I don't know whether we should be even having this conversation or something to that effect. Then I said well, you may have a duty to supplement your testimony from the perspective of an agency witness. He, I think at that point, did not want me to give him specific information about contacts that I was aware of because I think he was at the point just not sure about whether he should be learning additional facts subsequent to the hearings.

The next day you sent this Committee your first of what turned out to be 4 letters to correct the record. In that letter, you continued to be, again in my opinion, evasive as you were in the February 24 hearing, and I'm going to read from that letter. It is basically a three-paragraph letter, third paragraph:

But I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to handling of press inquiries.

Let's take the position that you had no knowledge about these last two conversations. Why in the world wouldn't you have taken the opportunity to inform the Committee as fully as possible? And frankly, I have watched the testimony now for hours and you have repeatedly given nonresponsive answers, which you justify with se-

mantic gymnastics. I believe you have continued tonight the evasive course which you adopted on February 24 and continue through a series of incomplete and misleading letters written to the Committee. I can't help but conclude that your every statement to this Committee is to evade, not to inform.

So I say why in the world wouldn't you take this opportunity to inform the Committee as fully as possible in those four letters?

Mr. ALTMAN. I did so, Senator Mack. As you know, I received that call from Mr. Podesta and what happened? That same day, I sent this Committee a letter indicating that I just learned about those meetings. I thought they had to do with press inquiries. The same day. I didn't hesitate at all to put this information in the hands of the Committee as soon as I had it, the very same day.

Senator MACK. Mr. Altman, again, I think you could have gone into a little bit more detail about what those meetings were about.

Mr. ALTMAN. When Mr. Podesta told me about the meetings, I think he'll confirm that I said to him I never heard of the meetings which is simply the truth. Now, I wasn't then sure whether it was proper for me to get briefed on the meetings, whether I should get some legal advice as to whether I should then get briefed or not get briefed. I did call in Ms. Hanson and Mr. Steiner immediately or at least speak with them. They confirmed the meetings—

Senator MACK. But you felt no need to provide information to the Committee about what those meetings were about? I mean, I understand that Mr. Podesta may have tried to get you to provide information not only about the meetings, but about the recusals as well. Again, the feeling we had was when he started to talk to you, you just didn't want to have anything to do with this.

Mr. ALTMAN. That's just not true, Senator. You quoted Mr. Podesta when he asked me, I guess it was about recusal, I said I believed that my answer was responsive to the question or it was accurate. That's what I believed. You may not like that, but that's just what I believed. Now, I just don't accept the notion that I was evasive. I immediately prepared this letter. I called Senator Riegle on the phone, told him about it. I called Senator Bond, reached him at home, 8 p.m. or 9 p.m., told him about it. That's not the pattern of someone who's trying to withhold information.

Senator MACK. Let me go back to a concern that was mentioned in the transcript about you having the conversation. What was that about? Why were you all of a sudden having concern about talking with folks at the White House?

Mr. ALTMAN. No, no, I just didn't know at that moment whether it was appropriate to get fully briefed on those meetings, whether I should have that information at that point.

Senator MACK. Again, what was wrong with being fully briefed and then passing that information on to the Committee? If the purpose was to fully inform the Committee, why wouldn't you do that? That sounds like a fairly reasonable question.

Mr. ALTMAN. I just wasn't sure whether it was appropriate, including legally appropriate, for me to immediately get all this information and my first instinct was to be cautious, but Senator—

Senator MACK. Cautious about what?

Mr. ALTMAN. Senator, the salient point is I immediately communicated to the Committee.

Senator MACK. What you communicated to the Committee was that there were two meetings, nothing about the meetings, nothing about recusal. Again, it seems like you were just going to provide us just enough information and that's the point that I'm making. All through this process, the February 24, the follow-up and frankly your testimony here tonight, you just give us enough but not any more and that's the way it comes across. I'm sorry, but that's the conclusion that I've come to.

Mr. ALTMAN. I respectfully disagree. I'm prepared to sit here until hell freezes over to answer every question you want to ask.

Senator MACK. Why were you so concerned, in this testimony here in this transcript indicated that you weren't even sure whether you should be having conversations with folks at the White House?

Mr. ALTMAN. They told me—Mr. Podesta said the meetings had—he asked me what about the meetings. I said I didn't know anything about them. And I think that confirms that my response to Senator Bond on February 24 was an honest response.

Senator MACK. But you subsequently found out about those meetings. You could have taken the opportunity in these letters to, in fact, fully inform. Taking it from the perspective that you didn't know about the meetings, why couldn't you have just said, again, not knowing about the meetings, but here's what we've been able to reconstruct as to what happened at those meetings?

Mr. ALTMAN. I tried to use my best judgment, Senator.

Senator MACK. Thank you, Mr. Chairman.

The CHAIRMAN. Have you finished your time?

Senator MACK. Yes.

The CHAIRMAN. Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman and good morning to everyone, my colleagues, Mr. Altman. I keep telling myself it's only 9:20 p.m. in California so I'm convincing myself I'm not tired.

Mr. Altman, it is my very honest view that there's some of those on this Committee who want your head on a platter as some tangible result of these \$400,000 hearings. That's my belief. And if I believed for 1 minute, for 1 second that you tried to weaken the investigation of Madison Guaranty or any other S&L because there are tons of others, I'd be right there with them. So far, I believe quite the opposite.

Now, I didn't know you before when you served in Government. I don't know much about you, but I can tell you that I believe quite the opposite is the case.

You hired Ellen Kulka, a tough litigator, to handle the Madison case; is that correct, that you hired her?

Mr. ALTMAN. I did, yes, Senator.

Senator BOXER. And when Bernie Nussbaum was grumpy about Ellen Kulka and said something to the effect of, you know, she's tough and maybe we better not—maybe she can't be trusted or words to that effect, you kept her in her place and you defended her, did you not?

Mr. ALTMAN. Yes, Senator.

Senator BOXER. Did you not defend her to—

Mr. ALTMAN. I told him I had confidence in her.

Senator BOXER. Sorry?

Mr. ALTMAN. I told him I had confidence in her.

Senator BOXER. You did. So if you were to "please" Mr. Nussbaum, you certainly wouldn't have, it seems to me, defended her.

You recommended a Republican to head the RTC; is that correct?

Mr. ALTMAN. Yes.

Senator BOXER. You spoke to some people up here about that individual?

Mr. ALTMAN. Yes, Senator.

Senator BOXER. Is that correct? You took no action to stop the hiring of Republican Jay Stephens as Outside Counsel of the RTC; is that correct?

Mr. ALTMAN. That's correct.

Senator BOXER. Even after you were called by a couple of folks at the White House and they complained about Mr. Stephens and they explained to you that he, Mr. Stephens, had been very harshly critical of the President, you said it's a done deal, didn't you?

Mr. ALTMAN. Yes, Senator.

Senator BOXER. Did you say you'd look into it?

Mr. ALTMAN. No, I did not.

Senator BOXER. Did you say you were stunned by it?

Mr. ALTMAN. No.

Senator BOXER. Did you talk to Ms. Kulka about getting rid of Mr. Stephens?

Mr. ALTMAN. No, I didn't.

Senator BOXER. Did you chastise her for that?

Mr. ALTMAN. No, I didn't chastise her. I thought it was kind of vintage Ellen.

Senator BOXER. It was vintage Ellen. Did you tell the staff at the RTC to treat Madison as they would any other case?

Mr. ALTMAN. Yes, Senator, I did.

Senator BOXER. Because Mr. Roelle said that. Ms. Kulka said it. And Mr. Ryan said it. They all said it. Ms. Hanson said it.

You briefed Republican Senators and Congresspeople on this issue just about the same time you briefed the White House on the procedure; is that correct, in letters and so on?

Mr. ALTMAN. I responded to the inquiries that were coming to me, yes.

Senator BOXER. The recusal to take yourself out of the Madison case, that was your idea, was it not?

Mr. ALTMAN. Yes, it was.

Senator BOXER. Initially?

Mr. ALTMAN. Yes, it was.

Senator BOXER. And in the face of White House Counsel, I'll call it disapproval, grumpiness, agitation, excitement, you eventually recused yourself, did you not?

Mr. ALTMAN. Yes, I did.

Senator BOXER. Now, Ms. Hanson told you at the February 24 Senate hearing when you turned around to her, did she not tell you that your testimony was complete vis-à-vis the meetings and that you were correct to say there were no other meetings; is that correct?

Mr. ALTMAN. She confirmed that my response to Senator Bond on that question was the right one.

Senator BOXER. So when we saw her on that tape shaking her head no, you said were there any other meetings, and basically that's what you said, she said no.

Mr. ALTMAN. Yes.

Senator BOXER. Now, I personally fault Ms. Hanson for not getting the transcript. She tells us she knew they had to be corrected, but somehow this woman, who is of very high caliber, couldn't figure out a way to get the transcript and doesn't make the corrections, but didn't she sign off on your corrections?

Mr. ALTMAN. She signed off on the letter I sent to Senator Riegle on March 2, and, I think, the March 3 letter.

Senator BOXER. When she signed off on that, did she say, but Mr. Altman, this isn't right or Roger, we need to do more?

Mr. ALTMAN. No.

Senator BOXER. Mr. Altman, do you feel it would have been better if you had not had that briefing at the White House?

Mr. ALTMAN. In hindsight, it should have been done in writing.

Senator BOXER. In hindsight, it should have been done in writing, just as you did to Members of this Committee, other Senators, and Congresspeople. That's your view at this point?

Mr. ALTMAN. Yes, although if any Senator had called me, I would have given him the information right over the phone if I had it. It was generic.

Senator BOXER. Mr. Ryan came to Senator D'Amato's office and briefed him personally so obviously the RTC was willing to do that. And now that you know all about these other meetings where the criminal referrals were discussed in terms of a press leak, you think it would have been better, even though you didn't know about them, that they hadn't taken place at all?

Mr. ALTMAN. Yes. We've said that. I agree with it.

Senator BOXER. And you think it would have been better if you went with your gut and had recused yourself because in your heart you didn't feel perfectly good about it—and that was a noble thing—you should have gone with it and you agree with that now.

Mr. ALTMAN. I should have done that initially. I know it has created a great big uproar and I regret that. I wish I hadn't. But I did recuse myself.

Senator BOXER. I understand that. Had you gone with it first, you agree it would have been better off. So I would just sum up here and say, unlike Ms. Hanson, who never admitted she did anything wrong ever, you have stated to us very—I believe in an open way and maybe my colleagues don't think it's a big deal—you have stated that you made some mistakes or you didn't put it in quite that terms. You would have done it a little differently.

Mr. ALTMAN. I made some mistakes. I absolutely did. If I could do it all over again, I'd do several things differently. I'd have the February 2 communication in writing. I'd recuse myself right off the bat.

Senator BOXER. I appreciate that, Mr. Altman. I think it's a sign of maturity. And I do feel—

Mr. ALTMAN. I've gotten a lot older over the last 3 or 4 months.

Senator BOXER. Right, and I think you're going to be a stronger person for it all. Thank you very much.

The CHAIRMAN. Senator Faircloth.



Senator D'AMATO. Mr. Chairman, Senator Faircloth is going to yield 2 minutes to Senator Gramm. Would you yield 2 minutes to Senator Gramm first?

Senator GRAMM. Would the Senator yield just 1 minute? I want to clarify a point of information.

Senator FAIRCLOTH. Go ahead.

Senator GRAMM. I don't want the record to suggest, Mr. Altman, that you said or implied something that was untrue. When this list of your achievements was listed, one of the examples given was the hiring of Jay Stephens. Is it not true that you did not hire Jay Stephens, that you did not know he was hired, and that you did not even know who he was? Is that not true?

Mr. ALTMAN. That's true. Ms. Kulka hired him partly or at least—

Senator BOXER. I asked if he had any objection and he tried to get him fired.

Senator GRAMM. But the point is, Mr. Altman, you didn't even know he was hired, so you couldn't have had an objection. Is that not true?

Mr. ALTMAN. I think it's a good thing I didn't know he was hired. Those decisions didn't come to me.

Senator GRAMM. Would you please answer my question? Is it true that you did not know he was hired, so you couldn't have had an objection one way or another?

Mr. ALTMAN. That's correct.

Senator GRAMM. In fact, when it was raised you didn't even know his name; right?

Senator BOXER. Mr. Chairman, I would like to say the Senator from Texas is not correctly stating what my question was. I asked if he—

Senator GRAMM. Mr. Chairman, I have the time and if I may claim it. I'd like to ask the reporter to go back and to read Senator Boxer's statement and see if Mr. Altman responded to it.

Senator DODD. Mr. Chairman, come on.

Senator SARBANES. That's going to take a lot of time to get the reporter to do that and that's not—that's a nice kind of a debating technique, but I think if Senator Gramm has made his point, Senator Boxer made hers, and I think we ought to go ahead—

Senator GRAMM. I would withdraw it, Mr. Chairman.

Let me just pose a yes or no answer. Did you know that Jay Stephens had been hired? Did you know who he was? Did you have any ability, therefore, to stop it, encourage it, or have anything to do about it until you were told about it by the White House after he was there? Yes or no.

Mr. ALTMAN. No.

Senator GRAMM. That's all.

The CHAIRMAN. I might just say, the recording person down here has done a terrific job and she was here last night, too. She's been here steadily tonight and she's been mentioned and she ought to be recognized for her hard work and we appreciate it.

Senator BOXER. Mr. Chairman—

Senator DODD. Let the record show that the recorder is not smiling either.

[Laughter.]

Senator BOXER. As a point of information for the Senator, I read that question and if you care, I can read it back to you. "You took no action to stop the hiring of Republican Jay Stephens as Outside Counsel of the RTC; is that correct?"

Senator GRAMM. And Mr. Altman, as I recall, said yes or that's correct. The point is he couldn't take action because he didn't know about the hiring, and I didn't want him to be incorrect.

Senator BOXER. He was told by Mr. Stephanopoulos.

Mr. ALTMAN. Senator, the question was, did I take any action to stop it, and the answer is no.

Senator GRAMM. But the implication, Mr. Altman, was that you could have. Senator Boxer was giving you a litany of the things you had done and——

Senator KERRY. You know, I don't think we're going to edify anybody with this exchange.

The CHAIRMAN. Senator Faircloth.

Senator FAIRCLOTH. I had some questions to you concerning Mr. Fiske, but they'll hold. I am going to yield my time to Senator Domenici.

Senator DOMENICI. Thank you very much. That's probably because I'm the oldest one here.

Senator DODD. Pull the microphone closer to you.

Senator FAIRCLOTH. Not chronologically.

Senator DOMENICI. Mr. Altman, let's see, you have been telling us that you didn't recuse yourself on February 2, but you did recuse yourself on February 25.

Mr. ALTMAN. Yes, sir.

Senator DOMENICI. I get the impression that you're trying to lead us to believe that there is no real difference between your recusing yourself on February 2 and your recusing yourself on February 25, and I think there is a big difference. In fact, I think the difference between those two dates, of your recusal on February 2 or recusal on February 25, is all the difference in this whole situation, so let me tell you why I think that. On February 25, there was no imminent decision to be made in the Madison/Whitewater case, no imminent decision to be made.

On February 2, when the White House exerted and I quote from one of the witnesses, "intense pressure," the situation was dramatically different, Mr. Altman because on February 2, the White House and you both understood that within 3 weeks, either the statute would expire and Whitewater would soon be a distant memory or someone would have to make a decision to bring the case or seek a tolling agreement. February was the critical time. The White House understood. Bernard Nussbaum understood that, and the White House was fearful that if you recused yourself, the President and the First Lady would be left defenseless against Ellen Kulka or other RTC professionals who might file suit in the Madison/Whitewater case. The White House wanted you, not Ellen Kulka, to be the decisionmaker. And the documents and the testimony make this very clear.

Now, let me read something to you. Let me direct your attention to a very new document that was just given to us. It had been previously edited out, and the White House later agreed we could have it. It's a memorandum dated February 28 from Neil Eggleston to

Harold Ickes where we get a unique insight into how they perceived your role, and, Mr. Altman, maybe you did not perceive your role this way. I am confident the White House did.

Mr. ALTMAN. Senator, what's the date of it?

Senator DOMENICI. I'm telling you it's after all this, but just wait until we have to hear what it says.

Mr. ALTMAN. It's after I recused myself; right?

Senator DOMENICI. Yes, it's February 28, but let me read it for you, because—

Senator KERRY. What page?

Senator DOMENICI. Let's see—of the memo that we have?

Senator KERRY. No. You're reading from the Eggleston memorandum.

Mr. BRAUNREUTHER. Yes. Page 6 and page 7, the question is on page 6.

Senator DODD. Do we all have copies of this?

Senator DOMENICI. So let me read this to you. This is how, I think, they perceived you, as long as—that was your role as a decisionmaker as long as you didn't recuse yourself.

The question posed in this memo is, and I'm going to read memo number 1: This says, "now that Mr. Altman as acting CEO of the RTC has recused himself from further involvement in the Madison Guaranty matters, who"—"who at the RTC will be the decisionmaker on whether to bring a civil action arising out of the failure of Madison Guaranty."

Now, that answer reveals that you were to be the decisionmaker. And again, maybe you didn't believe that, but that's what this White House memo says. You were the decisionmaker.

Mr. ALTMAN. Senator, they may have believed that, but they were wrong.

Senator DOMENICI. I'm going to get to you and let you answer it. You might very well be the one that doesn't think it but they do and that accounts for the pressure. Let me read on. The answer reveals you were to be the decisionmaker until you recused yourself.

Now I'm going to read from the memo that I have marked out as paragraph 2 and it continues on, and it says, "following his testimony before the Senate Banking Committee on Thursday, Mr. Altman recused himself as acting CEO of the RTC from any further involvement in Madison Guaranty/Whitewater matters. The top official at RTC, who will be making these decisions on Madison Guaranty, is Jack Ryan. Mr. Ryan was formerly with the Office of Thrift Supervision. He is a career official. His principal advisor will be Ellen Kulka, now General Counsel at RTC who also comes from OTS. Ms. Kulka is also a career official."

And it continues on. "We intend to nominate a person for the position of CEO of the RTC within the next few weeks. We can participate"—excuse me—"we can anticipate that any person the President nominates will be pressured to recuse from the Madison-related matters. If the person refuses to recuse and if that person is forced to recuse to achieve confirmation, then Jack Ryan will remain the decisionmaker on Madison matters at RTC."

Now, actually, I've been wondering where all this pressure comes to keep you there, and I believe this is the answer. And I'm not saying you necessarily believe this, but now I believe unequivocally

that the decisionmaker was always perceived, the one who would decide whether lawsuits were filed in that 3-week period, that you were perceived by the White House to be that person.

Now you can elaborate.

Mr. ALTMAN. Well, my best understanding is that's not consistent with the testimony of the other participants in the meeting. I believe they all said that they got the message in terms of my not playing any role in the case. I think they said that themselves. It's also not consistent with Mr. Steiner's diary, where he says everyone agreed that I'd play no role in the case. And also, Senator, on February 11, the Congress of the United States extended the statute of limitations for 2 more years, made the issue completely moot on February 11.

Senator DOMENICI. Mr.—

Mr. ALTMAN. On February 11 the 2-year extension I was not going to play any role, I was stepping down on March 30.

Senator DOMENICI. You understand that on February 2 is what I'm talking about, when they talked you out of—when they talked you out of recusing yourself. On February 2, they had no idea at the White House that the statute would be extended on February 11. And let me further confirm for you something very interesting about this memo, OK?

This memo was from—it was sent by Harold Ickes—this memo by Harold Ickes to the First Lady. Do you have any comment?

Mr. ALTMAN. No, not really.

Senator DOMENICI. Thank you.

Senator KERRY. Mr. Chairman, if I could say to my friend—

The CHAIRMAN. Let me just indicate, Senator Moseley-Braun is next in the order and she's been waiting patiently. I want to call on her and if she wants to yield to you, she can. I don't want to—

Senator MOSELEY-BRAUN. I will be delighted to yield back some time after I ask my question. I can do that, that's not a problem because I don't think—this shouldn't take too long.

I feel so badly, Mr. Altman. This is so late and it's been such a grueling experience for you and I don't mean to pile on, but I think there is something that I'd like to get clarification on.

Mr. ALTMAN. Today is my son's 9th birthday and I am a little sorry to say I didn't talk to him today. It's not likely he's still watching, but—

Senator MOSELEY-BRAUN. Thank you, Mr. Altman.

Mr. ALTMAN. —If he sees the tape I want him to know I love him.

Senator MOSELEY-BRAUN. That's great. Happy birthday to your son and I hope you have some time soon to celebrate with him. Again, I really apologize this is really difficult, but it's obviously an important area.

Some of my colleagues have suggested you got yourself in this difficulty to begin with when you waited too long to recuse yourself on these matters. I think, and have all along, that you got on the slippery slope with this in the first place when you took this second job at the RTC, that that was the critical decision when you decided to take that position.

Earlier this evening, I had asked you if you sought advice of counsel regarding the relationship and the potential for legal or

ethical conflict between the two positions that you held. And your response to me indicated that you had not.

Again, this may or may not be a contradiction, but Mr. Foreman who is the Deputy General Counsel and the Ethics Officer over at Treasury related a specific conversation in March 1993, before you took the second job, in which he warned you not to take it, not to take this second job, and I really wanted—would like to try to refresh your recollection and clarify the record in that regard. Do you have any recollection of that conversation?

Mr. ALTMAN. Senator, I honestly don't. Dennis Foreman is a straight-up guy and maybe he did. I don't remember it.

Senator MOSELEY-BRAUN. Again, just to refresh your recollection because it's kind of almost ironic, frankly, what it was that he said to you. He said to you—the question was “do you recall any discussion at the time Mr. Altman was appointed about whether it was advisable to have a person who was Deputy Secretary of the Treasury sitting in the position of interim CEO from the standpoint of the legislative distinction or legislative wall between the Oversight Board and the RTC?” He goes on and says, and I'm just going to quote this part. He says, “when I heard that it was being considered that he was going to be appointed, I decided I needed to personally say something to him and talk to him about it.”

A few more words later and then he says, “I said to him, Roger, if you do this and take an appointment as interim CEO, something terrible is going to happen to you while you are the CEO. It will be something that you will probably not have anything to do with and you will be blamed for it and it's going to be terrible. I remember exactly what he said to me in response. He said Dennis, we cannot leave the RTC leaderless while we are trying to finish the funding and finish their work.” Do you have a recollection of that conversation?

Mr. ALTMAN. No, I don't, but I guess Mr. Foreman was right.

Senator MOSELEY-BRAUN. I really don't have any other questions except maybe to suggest had you might send a thank you note to Mr. Foreman or congratulate him on his prescience.

Mr. ALTMAN. I don't remember that, but that was good insight.

Senator MOSELEY-BRAUN. That's what he said. Roger, something terrible is going to happen to you.

Mr. ALTMAN. It did.

Senator MOSELEY-BRAUN. Right. It won't have anything to do with you and you will be blamed and it will be terrible, that's what he said.

Mr. ALTMAN. That's what happened.

Senator MOSELEY-BRAUN. Again, I want to thank you very much for your patience. I just wanted to clarify your recollection with regard to Mr. Foreman's testimony and to make sure the record was straight on the point.

Mr. ALTMAN. Thank you.

Senator MOSELEY-BRAUN. I yield the remainder of my time to Senator Kerry.

Senator KERRY. I won't use all of it. I appreciate that enormously. I guess our colleague has left now. I regret that enormously because he drew a very dramatic conclusion which I don't believe, if you read this document, is fully merited. I think I have

asked as many hard questions about the recusal issue as anybody here, but I find that this particular document, in fact, would underscore and almost provides evidence to the contrary in the sense that it is a document, a legal memorandum from Mr. Eggleston on transfer to the First Lady on March 1 written on February 28, which is several weeks after the meeting where the recusal was discussed.

Mr. Eggleston was not at that meeting. And all of the witnesses who were at the meeting of February 3 have, indeed, agreed that at that meeting, Mr. Altman said he was not going to be involved. So while I have sought to try to understand the recusal issue, nevertheless, there is no question before this Committee that Mr. Altman personally was going to somehow be involved.

So for somebody who is writing a memo who wasn't at that meeting to suggest—

Senator DODD. The February 2 meeting. You said the 3rd.

Senator KERRY. At the February 2 meeting or the February 3 meeting with Mr. Ickes, for someone to write this on February 28 saying now that Mr. Altman has recused himself, in fact, demonstrates he was not privy to any of that discussion on the 3rd or the 2nd and didn't know what Mr. Altman's true relationship to this decisionmaking was. So I would simply respectfully submit that this is, if you read the whole memo, a fairly straightforward lawyering memo, a status-oriented memo that kind of lays out where things are going and it almost shows a fairly significant lack of day-to-day knowledge of what is happening and the data significant for the quantity of lack of information.

Senator DODD. If my colleague would yield. Just a step further on that point, I mean, it said and I'm sorry the Senator of New Mexico has left as well, with sort of the pause for drama, that Mrs. Clinton got a copy of this memo from Mr. Ickes, who is what, the Deputy Chief of Staff at the White House, as if somehow that is a major revelation and someone ought to be getting a copy of a legal memo regarding the status.

Senator KERRY. I might just add, it involves the RTC/Rose Law Firm issues, the Rose Law Firm of which Mrs. Clinton was a partner. I think—I'm not trying—I think I've been fair in these proceedings, trying to find the facts. It strikes me that this is not what it has purported to be and it's important for us not to leave so now Mr. Eggleston I think is coming in. Am I correct? So we'll have ample opportunity to explore this with him but on the face of it, I think we should not draw a conclusion at this point in time. I think it's unfair.

The CHAIRMAN. Senator Bennett.

Senator D'AMATO. Will the Senator yield for a moment?

Senator BENNETT. Yes, I'd like to yield a minute to Senator D'Amato.

Senator D'AMATO. Mr. Chairman, I'm going to ask that the entire memo be placed in the record.

The CHAIRMAN. Without objection, so ordered.

Senator D'AMATO. Mr. Chairman, I just make note that Mr. Eggleston was at one of those meetings, the February 3 meeting, where Mr. Ickes came in. That's number one, so he had a little understanding and he is from the Office of White House Counsel.

Second, Mr. Ickes is the Deputy Chief of Staff, and I think—and he was at both of those meetings, and so I don't think we should be drawing inferences that somehow they were not in a position to understand all of the nuances with Mr. Ickes being at both of the meetings, Mr. Eggleston being at one of them. I thought I'd like to put that on the record.

Senator KERRY. I think that's fair. All I'm suggesting, Senator, is I think it's important for him to explain it and put it in a context before we have a dramatic conclusion.

Senator D'AMATO. I thank my colleague.

Senator BENNETT. I'll yield a minute to Senator Gramm.

Senator GRAMM. I'd like to add just two more points. First of all, this memo, except for the introductory paragraph, was redacted, so we didn't get it initially. We had to go back and ask for it. So that suggests that somebody somewhere may have not wanted us to have it.

Second, there is a cover memo, which neither you nor Senator D'Amato referred to. This cover letter is the memo to the First Lady from Harold Ickes, which then encloses the memo from Mr. Eggleston. Mr. Ickes was at every meeting, and if he is forwarding this memo on to the First Lady to read, it seems to me that is clear and convincing evidence to, at least, his belief in the veracity of it. That's all I wanted to point out.

Senator KERRY. Let me just say to my friend that if the issue of his being there was of such critical importance and on the 3rd, he got out—he said he was going to stay and what, the 25th, he gets out, there would have been some knowledge about who the other players were. Now, I'm not trying to exonerate. All I'm saying is you can't draw that conclusion.

But second, don't make insinuations about the redactions because this entire memo is outside of the scope of this hearing. It does not involve contacts, and it has only been made available to us by virtue of the White House's willingness to clarify this, to unredact and make it available. But into the scope of this hearing, we have no right to this and it's by their judgment that they want this open that we have it.

Senator GRAMM. I just thought that you needed two points of information. Number one, Mr. Ickes, who was at every meeting, forwards this document to the First Lady, so clearly he believed in its veracity. Second, we didn't—

Senator KERRY. I understand. We're going to have ample—listen, I think, Senator, I've been as interested in anybody in pursuing that line of questioning and we're going to have a lot of chance to get at it.

The CHAIRMAN. Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman.

I just have a few loose ends, Mr. Altman, and I promise that they have nothing to do with anything we've talked about before as the Chair requested.

Let me review your answer to a question from Senator Bond at the February hearing. It's on page 40 of the hearings. Trust me to read it accurately. It says:

Senator BOND. Mr. Altman are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high profile individual, someone in Government, for example?

Mr. ALTMAN. The procedure, Senator, which the RTC follows are intended to be identical in each case, and they certainly have been identical in the case discussed this morning.

Is that still your opinion?

Mr. ALTMAN. Is the question about the safeguarding of documents?

Senator BENNETT. No. The question is "Are there special measures taken in the resolution of the failed thrift when you find it to be affiliated with a high profile individual, someone in Government, for example?" Your answer, then, was, "The procedure, Senator, which the RTC follows are intended to be identical in each case, and they certainly have been identical in the case discussed this morning." Do you stand by that answer?

Mr. ALTMAN. I do.

Senator BENNETT. Let me read to you from Ms. Hanson's deposition: "I spoke to Mr. Curtis and I was told that although typically it is customary for criminal referrals to be sent directly from the regional office to the Department of Justice, if the referral involves people of prominence or relates to issues of national significance, then it would be customary for the referral to go to Washington in the first instance."

Now, you were the Chief Executive Officer of the RTC. Were you aware of this special procedure?

Mr. ALTMAN. I don't believe so, Senator.

Senator BENNETT. New York Times, July 26, alleges that you and an aide "tried to set up a system so they can be informed in advance of sensitive matters at the agency." Further, Mr. Gerth of the Times quotes Mr. Katsanos as saying, "Mr. Altman was interested in being consulted on major or politically sensitive matters." Did you or one of your aides try to set up an early warning system for political figures?

Mr. ALTMAN. I'm going to take a moment to answer that question, Senator, because I'm glad you asked it. I've taken a lot of heat over the past week or so, on this matter. It's been misreported from the beginning. It's still being misreported. I never asked to be kept abreast of any investigation or any case, despite what the press has said. All I asked was that, from the point of view of the press, I be alerted to any decision just before it's released which could have major press potential or major leak potential. Just before it's released. Don't involve me in the decision. I don't want to get involved in the investigation, but before you release it, a day before or something, please let me know because I may start getting inquiries about it. That's all that I asked. I think that's a very reasonable thing to have done and all this criticism of the past week or 8 days is based on an erroneous presumption.

Senator BENNETT. So the quotation attributed to Mr. Katsanos is either inaccurate or if it's an accurate quotation, Mr. Katsanos is inaccurate?

Mr. ALTMAN. I don't quite know what he meant. I'm just telling you—I just tried to tell you what the reality was and if he meant that I asked to be kept abreast of any investigation or any inner workings of a case, he's got it wrong.



Senator BENNETT. Does that include—and this is outside the scope of this resolution so you could decline to answer it if you'd like, but to give you the opportunity, since you said you were pleased that I raised it, would that include the case involving Congressman Jefferson?

Mr. ALTMAN. I don't believe I ever asked to be briefed on where the case stood involving Congressman Jefferson. No, I don't. That's my best recollection.

Senator BENNETT. Now, in your opening statement, you say on page 11 "around that same time, I literally ran into Mr. Nussbaum in a corridor of the White House. He told me the Administration would soon be submitting its' nominee for permanent RTC head."

Mr. ALTMAN. I'm sorry, Senator.

Senator BENNETT. From your opening statement, "around that same time, I literally ran into Mr. Nussbaum in a corridor of the White House. He told me the Administration would soon be submitting its' nominee for permanent RTC head." Is that still your recollection?

Mr. ALTMAN. Yes, sir.

Senator BENNETT. You're aware that Mr. Nussbaum has testified that you told him, quoting from Mr. Nussbaum's testimony, "I believe that Mr. Altman told me in late February, in another brief conversation, that a Washington lawyer, Larry Simons, was likely to be nominated to head the RTC."

Mr. ALTMAN. I don't understand that at all, because Mr. Nussbaum had no need to learn that from me. That was already under discussion at great length at the White House. He would have known that without my telling him.

Senator BENNETT. Who conducted the Executive search, the White House or the RTC?

Mr. ALTMAN. Well, the Treasury and the White House generally work together in terms of the list of candidates and narrowing it down and ultimately selecting Mr. Simons, subject, of course, to background work and vetting and subject to the views of several Senators, Senator D'Amato, Senator Riegle, Senator Dodd, and others whom we thought we should check with.

But when I ran into Mr. Nussbaum a day or two before my February 22 testimony, he undoubtedly knew that sometime earlier, some considerable time earlier.

Senator BENNETT. That confuses me even more.

Mr. ALTMAN. I think when he's here—he is coming here, isn't he?

Senator BENNETT. Yes.

Mr. ALTMAN. I think when he's here—I can't swear to it—he'll clear that up because he didn't find that out the day or two before my testimony when we ran into each other. He found that out much earlier, or I think he did.

Senator BENNETT. Well, we'll just have to—

Mr. ALTMAN. Also, Senator, it wasn't my responsibility or, for that matter, the Treasury's responsibility to send the nomination forward.

Senator BENNETT. All right. We'll just have to straighten that out because there's a discrepancy. Your recollection is different on the face of the testimony from his recollection.

If I could go back just quickly to my earlier questions about being informed about cases, give you one more opportunity to comment on that, would you please distinguish between being advised about ongoing investigations and being informed about a case being filed. Would the system that you've been criticized for, in the press, apply to the first instance of ongoing investigations? I think you've indicated that it would apply only to an ongoing investigation and only at the time it was completed and only so that you could respond to the press. What about a case being filed?

Mr. ALTMAN. First of all, Senator, I never asked to be kept abreast of any investigation. In other words, where does it stand, how does it look? I never asked to be kept abreast of any investigation. I never asked to be kept abreast of any case. What does it look like, what's the outlook, what's the facts? I never asked to be kept abreast of any case.

All I asked was that before the RTC released to the press information that would have a significant potential impact from the press point of view, I'd be alerted to it.

Now, I think that's a very reasonable thing to have said and while I haven't actually checked, I'd be surprised if other agencies didn't have a similar policy. Just simply let me know before you release it, not before you decided it—before you release it so that if I start to get inquiries, I won't be caught short. That's all.

Senator BENNETT. As you've described it, I think that is very reasonable. It's not as these other people have described it, and I suppose you'll have a conversation with Mr. Katsanos about that.

Mr. ALTMAN. No, I haven't had a conversation with anyone at the RTC.

Senator BENNETT. I suppose you will have a conversation with him.

Mr. ALTMAN. No, I won't. No.

Senator BENNETT. Thank you very much, Mr. Chairman.

Mr. ALTMAN. I'm never going to have a conversation with anybody at the RTC again.

The CHAIRMAN. I want to just take a moment to review what the outstanding requests are at this time. We've now heard from Senator Bennett and Senator Domenici. Help me if there are any others of you who want to take time.

Senator D'Amato, you have an interest.

Senator Gramm? Anybody on this side? Senator Dodd?

Senator DODD. I don't think it's my time. Go ahead.

The CHAIRMAN. Senator Dodd will defer to either of you.

Senator D'AMATO. OK. Mr. Altman, I want to take you back to February 24. I'm having trouble understanding some things, but maybe not. I'll tell you why. When you were preparing for this hearing, recognizing that the issue of recusal would be brought up, and I talked to you about it the night before, can you tell us why you didn't mention that recusal on the 24th when it was written down in your briefing book? Did Ms. Hanson tell you not to mention the February 2 discussions about recusal?

Mr. ALTMAN. First of all, Senator, I wasn't asked about recusal. You told me the night before you were going to ask me about it and I don't believe you did. Second, the question I answered from Senator Gramm and maybe I didn't do the best job answering it but

that's what—I tried to do my best, I took to mean communication relating to the RTC investigation of Madison. Now, I've said many times, and I'll say it again, I don't think that recusal had any bearing at all on the RTC investigation of Madison.

Senator D'AMATO. You did spend that February 2 meeting, probably the most contentious part of it or the only contentious part, centered around recusal; is that true?

Mr. ALTMAN. I think the facts demonstrate that that discussion had no impact, could not have had any impact.

Senator D'AMATO. I'm not suggesting that.

Mr. ALTMAN. But we could have had a contentious discussion about anything. We could have had a contentious discussion about the weather.

Senator D'AMATO. OK, Mr. Altman. Let me move on.

On March 1, Mr. Podesta calls you and he discusses with you your testimony. He suggests to you that it's not accurate and then he specifically goes into the area. He says, "I think that we were concerned, we thought that, whether or not it fit within the frame of his characterization at the meeting as being procedural, there would be a reaction to a further disclosure that the subject of recusal came up, and that it may be best to supplement the record." Now, you then went on. I mean, is that a fair—this is Mr. Podesta's deposition.

Let's continue. On March 2, and you've indicated in an effort to correct the record, after Mr. Podesta called you, you write a letter and that letter fails to mention the February 2 recusal discussion. Now did Ms. Hanson advise you not to include that?

Mr. ALTMAN. No, Senator, she didn't. If I can—

Senator D'AMATO. How is it that in light of Mr. Podesta specifically calling this to your attention and saying to you that within the frame of this, of the meeting, that there would be a reaction to further disclosure and he really was incisive, you might say, because when we find out thereafter that there was this pressure and I think Mr. Kerry, my colleague from Massachusetts, said it, I think here you are in the situation where you don't want to be, but you are and we have to ask why are people putting you in this position? And then we have to say to ourselves well, you made it clear you wanted to recuse yourself. You made it clear to maybe half a dozen people. To your former assistant who writes a book and says that this is torturous, it's incredible and then others, Jean Hanson, the Treasury General Counsel—Ms.—the counsel there, what's her name? Kulka, Kulka. I mean, they all tell you recuse yourself. You go over there, Bernie Nussbaum—here, let me tell you, you're a tough New Yorker, you negotiate 24, 48 hours, you make deals. You didn't get here and become a great investment banker because you didn't have the stamina, intellect, and the capacity to stand up. He basically says, hey, wait a minute, we don't want to leave this with Kulka. He says that, it's undisputed. He's worried about her.

And so I'm not suggesting that you are going to think of doing anything other than what you've testified. You had your own purpose, your own mind, but you changed your mind. You said all right, I'll sleep on it, you come back and you have the next day and again the meeting on the 3rd, recusal, precipitated by that brow-

beating—and that's my characterization now, but if you read everybody else's that probably isn't inaccurate—one by Bernie Nussbaum who is the President's attorney.

Now we go on. On March 3 you write another letter and again you fail to mention the recusal of February 2. You bring up the other meeting, the meeting that took place on the 3rd, and why didn't you mention it at that time? Is that unreasonable to ask? You see, look, you are correcting the record, Podesta tells you about the meeting on the 2nd, you didn't correct the record.

Is it because you don't want to say to the Committee at that time, look, I did go in there to, and I was going to, recuse myself and this took place? I mean that's a reasonable explanation. I can understand it.

Mr. ALTMAN. Senator, I think the record will show or does show that when Mr. Podesta called me and asked me about that, I said that I thought my answer was responsive to the question. Now, that shows, for whatever it's worth, my state of mind. I thought my answer was responsive to the question and I believe that he'll confirm that I said that. On the first matter, the fall meetings, I was taken aback and before the end of the day I sent the Committee a letter indicating I just learned about it. Now I just thought that my answer was responsive.

Senator D'AMATO. Well, it's not until March 21, and that's nearly a month later, that you correct your testimony once again and you finally allude to that February 2 discussion of recusal.

I'd have to suggest to you when I begin to read all the other things, I come to the conclusion, given your discussion that you outlined in your diary, you don't want to discuss what happened. The diary where Maggie Williams tells you that the White House is "paralyzed" by Whitewater, Mrs. Clinton in particular. And I have to come to a conclusion, reasonable people might even disagree, that that's why Maggie Williams is at all of these meetings. What is Mrs. Clinton's Chief of Staff doing at these meetings to be briefed, the one on February 2, the one on February 3, conversations that she has with you on January 11 that you record in your diary? Where did she get the impression that Ms. Reno was attempting to limit the scope of the—I mean, this is an impression that she conveyed to you. Whether or not it was accurate or not, she actually told you this. You recorded that. I mean you recorded this faithfully as you remembered it at the time; is that true?

Mr. ALTMAN. As you see in the notes I drew that inference. You'll have the opportunity to ask a whole variety of people as to whether I drew the correct inference. Mr. Cutler believes that I didn't. In other words——

Senator D'AMATO. Let me give you——

Mr. ALTMAN. In other words, it didn't happen.

Senator D'AMATO. Let me give you something that you quoted in that diary. You said Maggie Williams indicated that "Hillary Clinton doesn't want the counsel poking into 20 years of public life in Arkansas." And that's quoted. And here's—you have Lloyd Bentsen and he goes over and he says, and you quote, he's going to go over to see George on Whitewater to "recommend lancing the boil." Of getting this out, getting you recused.

Mr. ALTMAN. No, Senator, I'm sorry. That's not what I meant in that.

Senator D'AMATO. What did you mean by that?

Mr. ALTMAN. Secretary Bentsen, who's got the best judgment of anybody I've ever met, thought that the White House should get on with it, get the Independent Counsel in place and move forward that way. That's what he meant by "lance the boil" or, at least, as I remember it. Nothing to do with recusal.

Senator D'AMATO. Let me ask you this. Is it still your testimony now after we've gone through this that the purpose of the February 2 meeting did not include addressing the issue of recusal?

Mr. ALTMAN. When I called Mr. McLarty and told him what the purpose of the meeting was, I said it's to discuss the procedure alternatives facing the RTC. That was the day before the meeting.

Senator D'AMATO. OK. Let me give you one other.

The CHAIRMAN. Would you just yield at that point for a moment?

Senator D'AMATO. Yes, sir.

The CHAIRMAN. We've covered that a lot of times but wouldn't it be fair to say after the fact, in that meeting recusal was discussed?

Mr. ALTMAN. Absolutely, Senator. I'm just saying that I discussed that extemporaneously.

The CHAIRMAN. It wasn't your plan to do so.

Mr. ALTMAN. No, it wasn't.

The CHAIRMAN. But it came up in the meeting and it was a subject of the meeting as the meeting actually happened.

Senator GRAMM. It was in his notes.

Senator D'AMATO. Let him finish.

Mr. ALTMAN. As I say, it wasn't the purpose of the meeting, I did bring it up, it did get discussed as you know and along the lines we've talked about and so that happened.

Senator D'AMATO. That's the problem I have. You told people you were going over there to discuss the issue of recusal, Josh Steiner had that impression. Let me tell you what Ben Nye says and Josh Steiner is almost beside himself in his notes when you read them and he said he let them talk you out of it. You were going over there to say that. You told—you discussed the matter with Kulka, you discussed the matter with Jean Hanson, you discussed the matter with the Secretary, and then Ben Nye says—he's your assistant:

*Question:* To your recollection did anyone indicate that the issue of recusal would also be addressed when Mr. Altman contacted the White House.

*Answer:* I believe that it was planned to be discussed.

Yet now, Mr. Altman, you've responded to the Committee Chairman with an answer that is contradicted by just about—if you look at it and really look at all the people's recollections, that it was certainly intended to go over there to discuss that subject.

Are you really saying you didn't intend to discuss the issue of recusal? Honestly to this Committee at this—at 1:15 a.m., after everything has come out, you contend now that when you went over there, you didn't have on your mind and a purpose and a major purpose to discuss the issue of recusal and I say major.

Senator KERRY. Is this the 2nd or the 3rd?

Senator D'AMATO. This is the 2nd, February 2. This is when Bernie opened up.

Mr. ALTMAN. All I'm trying to say, Senator, and I think the record is clear on this, when I called Mr. McLarty and said, this is why I'd like to come meet, I didn't bring up recusal. When I made that phone call which I think was the day before that wasn't my plan.

Senator D'AMATO. I didn't ask you what you said to Mr. McLarty. What you told other people and when you set out to go over to that meeting, did you intend to bring up the issue of recusal?

Mr. ALTMAN. It's my best recollection that I brought it up extemporaneously. I think in my deposition it says that I blurted it out. That's my best recollection.

Senator D'AMATO. You blurted it out?

Mr. ALTMAN. Yes, I think that's what I said in deposition.

Senator D'AMATO. These people are all waiting to hear what you are saying about that. You really think that they didn't know that the statute of limitations was going to end on February 28? And I know the red light is on. If you want me to stop, we'll just come back to it later.

Mr. ALTMAN. I do want to say I don't believe, to address myself specifically to Senator Riegle I don't believe that any of the participants in that meeting when I walked in the room thought or knew that that recusal was going to be discussed.

Senator D'AMATO. Let me just put this—here is your talking points prepared for that meeting.

Senator GRAMM. For him.

Senator D'AMATO. Prepared for you, you have asked for these talking points and it says I've decided that I—look how definite it is. "I have decided that I will recuse myself from the decisionmaking process as interim CEO of the RTC because of my relationship with the President and Mrs. Clinton."

I mean you are going to say that. You told this to Ms. Hanson. You told this to Nye. You told this to Steiner. You were going to go over there and do it.

Senator KERRY. But as the Senator knows, there were separate talking points that came out of that meeting.

Senator GRAMM. This is what he took in.

Senator DODD. Can I just on the point—

The CHAIRMAN. Senator Sarbanes has asked to be recognized and your time is up.

Senator D'AMATO. You all are more than generous but if I could conclude in 15 seconds. This is the aspect that troubles me. Even at this time and I conclude by that given these facts, given this information, I say I can only come to the conclusion that you absolutely intended to go to that meeting to discuss the issue of recusal and then when asked to correct the record, refused to do it and it was only almost a month later before you finally brought that into play. And I thank my colleagues for being as patient as they have.

Mr. ALTMAN. I would like a moment if I could to respond to that.

The CHAIRMAN. Yes, go ahead.

Mr. ALTMAN. That's untrue, Senator. I answered the question that I was asked in the way that I understood it. Sometime between calling Mr. McLarty the day before and bringing it up, maybe I decided, oh, now I'm going to discuss it. I think Ms. Hanson added the talking point of her own volition, I think she did,

and it would have been natural because she wanted me to recuse myself. I don't want to leave any doubt here. Yes, recusal came up; yes, it was an active topic of conversation. Yes, I brought it up. I just didn't have any long-term plan to do that and within 24 hours or less before the meeting, it wasn't my intention to do that. I'm not sure when between that and the actual bringing it up I decided but when I called Mr. McLarty, as he'll attest, I never mentioned recusal because at least when I called him, it wasn't my plan to do that. And I actually said to Mr. McLarty I'd like to come talk to you about these procedural alternatives. I know him very well, we're good friends, we talk a lot. I would have said I want to talk to you about recusal if that was my plan when I called him and I called him the day before.

The CHAIRMAN. Senator Sarbanes——

Senator GRAMM. Mr. Chairman, could I just make a point of information that's very relevant to this, and it will save us time. It's not a question, it's just a point of information that I think is very relevant. If that would be OK.

The CHAIRMAN. Senator Sarbanes yields for that purpose.

Senator GRAMM. Would the Senator——

The CHAIRMAN. Yes, he has yielded for that purpose.

Senator GRAMM. On February 1 you had a meeting in Senator Bentsen's office in which you informed the Secretary that you had decided to recuse yourself.

Mr. ALTMAN. I don't believe that's the case, Senator.

Senator GRAMM. This is according to Jean Hanson's testimony. You also told Secretary Bentsen that you should notify the White House of your decision, and Jean Hanson said that she should accompany you. So you had a meeting, according to Jean Hanson, on February 1, the day before the White House meeting, in Secretary Bentsen's office in which you told Senator Bentsen that you were going to recuse yourself and you were going to tell the White House. Then when you went to the White House, you carried with you a list of talking points, the last of which is that you're telling them that you're recusing yourself. And yet you say to a direct question, I'm talking about point blank yes or no, that this was all extemporaneous.

Mr. ALTMAN. Senator, first of all, I recall going to Secretary Bentsen's office and asking him, and this is the first time I asked him, what his advice was on recusal. When I went into his office, I didn't know what his advice was and frankly, I would have been very guided by his advice because that's the regard I have for him.

So when I marched into his office, it wasn't to tell him I was going to recuse myself. It was to say what is your view on whether I ought to recuse myself. That's what I did that day. And I have no recollection, I don't believe Secretary Bentsen does either, you can ask him tomorrow morning, of saying to him that I was now going to march over to the White House and announce that I was going to recuse myself. He doesn't recall that and I don't recall that. If I have it right.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman.

My understanding is that these talking points, the last one of which mentions recusal, for the meeting were prepared by Ms. Hanson; is that correct.

Mr. ALTMAN. Ms. Hanson did prepare the talking points and I think she added the last one of her own volition. I could be wrong but that's just what I recall.

Senator SARBANES. Well, but she worked the talking points up for you, you didn't work up the talking points yourself, did you?

Mr. ALTMAN. No, that's true. Yes, sir.

Senator SARBANES. She, in effect, was the one who put together the talking points for the purpose of this meeting?

Mr. ALTMAN. Yes, she did.

Senator SARBANES. Now, it is the case that you had been debating this question of recusing yourself; isn't that correct?

Mr. ALTMAN. I'd been seeking advice on it.

Senator SARBANES. For what, a number of days or weeks?

Mr. ALTMAN. No, no, just 1 or 2 days. It didn't even enter my mind until I saw that Ricki Tigert issues come up in terms of the, you know, the pressure she came under to recuse herself in advance, and I think that was just a couple of days before February 2 but I'm not positive.

Senator SARBANES. So when was the meeting set up with Mr. McLarty?

Mr. ALTMAN. I believe it was the day before.

Senator SARBANES. And you set that up by calling him and talking with him?

Mr. ALTMAN. Yes, sir.

Senator SARBANES. And at that time your intention was to talk about the procedural aspects on this—

Mr. ALTMAN. Yes, sir. That's what I told him.

Senator SARBANES. The talking points, I'm just trying to be clear because we get a lot of staff work too. I take it these were prepared and given to you as you were going off to the meeting. It wasn't—

Mr. ALTMAN. Essentially yes, Senator.

The CHAIRMAN. Could I follow up on that? I've not taken a turn for a while here.

Senator SARBANES. I'm happy to give you time.

The CHAIRMAN. Thank you for yielding.

Do you recall whether or not the briefing sheet was something that Ms. Hanson or anybody else reviewed with you before you went over to the meeting?

Mr. ALTMAN. I don't believe so. I think I saw it as I left the office or on the way over. That's my best recollection.

The CHAIRMAN. But you would have had it, I assume. Did you have it with you?

Mr. ALTMAN. When I arrived at the meeting?

The CHAIRMAN. Yes.

Mr. ALTMAN. Yes, Senator, I did.

The CHAIRMAN. On this question you just stated a minute ago, that the day before you were still up in the air on the recusal, you'd stopped in to see Secretary Bentsen to get his advice. I take it that sometime then, in a sense, between that meeting and the meeting in the White House on the 2nd, you actually had come to a judg-



ment that you were going to go ahead and recuse yourself. And when you got into the meeting you gave that indication and that's when Mr. Nussbaum reacted vigorously to the contrary; is that—do I have that right?

Mr. ALTMAN. Yes, sir.

The CHAIRMAN. So sometime then in that 24-hour period you made the decision to go ahead and recuse yourself. Now, when you were here before us, in the exchanges that we looked at on television and talked about here today, why don't you just take a look at page 63, if you have it there, of the Committee record. This gets into the exchange.

This is Senator D'Amato asking this question at the top of page 63. And he says, and I'm just going to read here, "I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up as it relates to any meetings with White House Staff or Counsel."

Mr. Altman, I think you said that you and an official from Treasury sought out Mr. Nussbaum; is that correct?

"Yes, I did." I assume this refers to the February 2 meeting.

Then Senator D'Amato says, "Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House Counsel."

You start to respond, you say "solely to insure," and then Senator D'Amato stops you there and says, "solely to" with a question mark. Then you respond "solely to be sure that he understood the legal and procedural framework within which the RTC was working." And then you go ahead and elaborate on this question of that procedural framework.

Now someone could read and infer from that when you say, "solely to be sure," that that may have addressed what your initial purpose was, but sometime in the 24-hour period before that meeting, you reached the decision to recuse yourself and you raised that in the meeting and having raised it in a meeting, I think one could ask why wouldn't that then have been mentioned here? In other words this is after the fact, you are reviewing the meeting, I think it's fair to say you could be expected to have a recollection of it because there was this tension about the issue.

Mr. Nussbaum, you know, reacts strongly to it and then, in fact, having reached that judgment you decide over the next 24 hours basically to not go ahead with the recusal and to put that issue, in a formal sense, in abeyance for about the next, oh, 2½ weeks or so. So couldn't someone draw the conclusion here that that answer here, "solely to be sure," that he understood now coming after the fact, would look as if you were leaving out mention of the recusal study. I mean "solely" makes it sound as if that was all that was talked about and obviously it wasn't, so one way or another I think we've got to clear something like that up here.

Mr. ALTMAN. Well, Senator, honestly speaking, I can't remember precisely what was in my mind, but as I read it now, I think Senator D'Amato's question boils down to why did you have the meeting, and the reason I had the meeting as underscored by my conversation with Mr. McLarty was to talk about these procedures.

Now, I guess it could be looked at another way too, but I think that's a fairly reasonable way to look at it, what I just said.

The CHAIRMAN. I guess part of it and several people have touched on it, Senator Kerry has touched on it, and others have touched on it, and that is the recusal issue became a very sensitive issue. I mean it was an awkward issue. There was strong opinion expressed about it. I still think Mr. Steiner's diaries are relevant documents in the sense that he reflects in real time a lot of controversy surrounding this, granted some hyperbole is in the words that he chose and so forth, but he obviously was reflecting, because he wasn't there as you've indicated, the only person that I know of that he talked to about it was you. So whatever flavor you gave to him from that meeting had to be central to what he was relating to his diary. At least——

Mr. ALTMAN. I didn't have a chance to see all of Mr. Steiner's testimony this morning, so you please correct me, but of course he could have had conversations with the White House. He has those all the time. And he could have had conversations with Jean Hanson too.

The CHAIRMAN. Well, but even if so, let's grant that. If he'd gotten additional comments from others then that would be in a sense the recollections of other people to the fact that this was a heated discussion and that there was a lot of tension associated with it. I think it is fair to conclude, in looking at these questions fully recognizing the awkwardness and the sensitivity of the recusal issue, in deciding to do it and deciding not to do it and then later finally deciding officially to do it, that it ought to have been mentioned here. I think you see that now yourself, don't you.

Mr. ALTMAN. Yes, I agree with that, Senator.

The CHAIRMAN. It should have been mentioned. I think it's fair to say that that should have been encompassed within the response to the kinds of questions you were being asked. There were a series of questions that came and because it was a major issue, as we now go back and do the reconstruction, it should have come at that time. It didn't, you now acknowledge that it probably should have. I think it's important that we at least cover that degree of ground here now.

Mr. ALTMAN. I agree with you. If I could go back to February 24, I would have answered more expansively. All I've tried to say here today is that I just didn't come up here with an intent to conceal or withhold information.

Senator GRAMM. Mr. Chairman, is it our time?

The CHAIRMAN. Yes, and I didn't want to—Senator Sarbanes was gracious to yield to me.

Senator GRAMM. Mr. Chairman, I don't have a dog in this particular fight, but I can't sit back and not go into this. Let's talk about tonight. And I don't see these as big issues, this is what stuns me. I don't have any trouble every day saying boy, I messed something up. But it is obvious to me that other people have a tremendous difficulty doing that. Senator D'Amato asked you tonight, asked you about whether you planned to talk about the recusal, asked whether you had any idea in your mind that you were going to bring it up? In essence, that is what he asked you, and you said, "no, it was extemporaneous and I blurted it out." Now this is what you said tonight, this is not the 24th.

Now let me go back. I found another documentation. That's what you say, but let me tell you what the world says.

Mr. ALTMAN. Incidentally, Senator, if I can just say, I hope I've said tonight several times tonight, I want to say again. I made mistakes. I did mess this up. I should have recused myself right off the bat. I should have been more expansive on February 24. I should have had the—I mean, not had it and communicated it in writing. I agree with that. I mean.

Senator GRAMM. If I can reclaim my time, since it's 1:30 a.m. The point is tonight, tonight, when Senator D'Amato asked you about whether you planned to mention recusal, whether you had any idea of talking about it, you said, "no." In fact, your words were—and I've shifted the paper around here that I had them written on and lost them—that it was extemporaneous and you blurted it out.

That's the statement you made tonight. That was part of your defense for what you said on the 24th, your argument that you had compartmentalized the matter in your mind, the assertion that you were only talking about statute of limitations because that's all you intended to talk about. You didn't intend to talk about recusal and therefore you didn't have to answer Mr. D'Amato's question. If you wanted to make what you say logical that would be it. Let me go on with my point.

Mr. ALTMAN. I'd like to respond to that, I'm sorry. I just said to Senator Riegle that sometime between setting up the meeting and actually bringing up the subject, I resolved to bring it up. Now I happen to think that it was more or less—

Senator GRAMM. You said it was extemporaneous, or that you blurted it out.

Mr. ALTMAN. I happen to think it was more or less at the time I brought it up. Perhaps it was somewhat earlier. I don't know whether it was an hour before or 10 minutes before or 2 or 3 hours before.

Senator GRAMM. I accept that as your statement. You revised "extemporaneous" and "blurted it out."

Ben Nye in sworn testimony says the following; this is the question: "To your recollection, did anyone indicate that the issue of recusal would also be addressed, be addressed when Mr. Altman contacted the White House?"

Now this is about the meeting on the 2nd. His answer is, "I believe it was planned to be discussed." Now here is what—

Senator DODD. Who says that?

Senator GRAMM. This is Ben Nye. Here is what Jean Hanson says: "Mr. Altman"—this is at a February 1 meeting at 12:45 p.m. in Senator Bentsen's office. This is 1 day before you go to this meeting. "Mr. Altman told Secretary Bentsen that he had decided that he would recuse himself from the decisionmaking on the civil investigation and that I had recommended that he do so. The Secretary asked who would make decisions and Mr. Altman said it would be Ellen Kulka and Jack Ryan."

Senator DODD. Can I ask my colleague, Phil, I mean seriously hasn't this ground been covered?

Senator GRAMM. No, it has not been covered. I'm making a point and I think it is the point of this hearing. Then she goes on and says—this is Jean Hanson at this meeting at 12:45 p.m. on Feb-

ruary 1—she says, “the Secretary said that it sounded to him like this was something that Mr. Altman had to do. Mr. Altman said that he thought he should tell the White House before they learned it from some other source. I told him that if he was going to talk to the White House I thought I should come along and he agreed.”

Now, then she prepares talking points for you, and the last talking point is recusal. Here is my point. If this was extemporaneous, if it had never been planned, that conflicts with other testimony. Ben Nye says he believes he was told recusal was going to be a subject matter. Jean Hanson says that recusal was discussed at a meeting the day before, and that you said you were going to do it, you said you were going to set up the meeting to do it, and that she said she wanted to be there when you did it. Senator Bentsen agreed you ought to do it. Then you have a briefing paper to take with you, saying that you are going to do it. It seems to me that this casts some doubt on this assertion that this was somehow spontaneous. Now maybe it doesn't to you——

Mr. ALTMAN. Senator——

Senator GRAMM. —but it does to me.

Mr. ALTMAN. Senator, just a moment ago I responded to Senator Riegle by saying that sometime during the 24-hour period, give or take 24 hours, between calling Mr. McLarty and going over to the White House, I decided to bring it up. Now I happen to think it was just before the meeting, but maybe I'm not recollecting it right.

Senator GRAMM. Was it brought up the day before with Secretary Bentsen?

Mr. ALTMAN. I went to see Secretary Bentsen and I asked for his advice. If I had already known what I was going to do, I don't think I would have walked into the office—and that was within 24 hours of the meeting roughly—and asked for his advice. I don't know what moment in that 24-hour period——

Senator GRAMM. What did he say, what was his advice?

Mr. ALTMAN. I think I've already answered that but I'll be happy to do it again. His advice, as usual was awfully good, was it's a personal decision. I think he knew it wasn't legally or ethically required. It's a personal decision. If I were you I'd do it and the essence of what he said then was because it's in your self-interest, something like that.

Senator GRAMM. Did you say, as Ms. Hanson says you did, that you were going to do it and you were going to set up the meeting?

Mr. ALTMAN. I don't remember exactly what I said. I may well have said that's a good idea or I probably should recuse myself. I may well have done that. Obviously, when I brought it up, 24 hours later, I had decided to say what I said, which was that I've been advised to recuse myself and I intended to take it.

Senator GRAMM. Mr. Altman, I'm going to take this up, because it's even embarrassing to me. The point here is not that you brought it up, not that you talked about bringing it up, but that you said under oath tonight that it was extemporaneous or you blurted it out, and yet I have given you two sworn statements that contradict that, and then I have given you a briefing paper. I don't know about other people, but when I go to meetings and somebody's given me a briefing paper, I look it over before I go. Did you ever look at this briefing paper?

Mr. ALTMAN. I think I had it on the way to the meeting.

Senator DODD. That's how I do——

Senator GRAMM. Did you ever look at the briefing paper?

Mr. ALTMAN. I said I think I had it on the way to the meeting.

Senator GRAMM. You had it.

Mr. ALTMAN. I'm sorry. On the way to the meeting or going to the meeting, I——

Senator GRAMM. Let me go to my other questions. I just thought that that should be cleared up.

Let me set the environment we're in, because this I see as an important question, and I'm just confused about what the answer is. You've got all these people who are saying all these things about recusal and its consequences, that it's all a matter of public record. Nussbaum is saying that, Ellen Kulka was considered too tough. Steiner is saying in his pros and cons for recusal that the White House would be left defenseless. Steiner is saying in his diary that you are under intense pressure. Forty-one Republican Senators have signed a letter saying you should recuse yourself.

Mr. ALTMAN. No, Senator. The word "recusal," I believe we can pull it outright here. I don't believe the word "recusal" appeared in that letter. Why don't we pull it out?

Senator GRAMM. OK. In the meantime, strike it, it's not essential.

Senator DODD. Well, it is kind of essential. Those are the kind of things that get said in a hearing at 1:30 in the morning. People make those charges. It becomes a litany. Let's see the letter. I'd like to see the letter.

Senator GRAMM. OK. If I may go on, let me pose my question while we're looking at it; is that reasonable?

Mr. ALTMAN. We'll try to find it here and see if we have it.

Senator GRAMM. I withdraw the letter, pending finding it. Now, that is the general environment. You decide on February 25 to recuse yourself. Did your recusal have anything to do with Madison Guaranty Savings & Loan case?

I think I've heard you say several times it had nothing to do with Madison Savings & Loan, and I'd just like a yes or no answer. Did it or not?

Mr. ALTMAN. What I keep saying, Senator, and I just think this is the right way to put it—I'm sorry. I guess I don't see it the same way you do. What I keep saying is whether I recused myself or whether I didn't could not have had any bearing on the investigation so in my view depending on how you use the word "case"——

Senator GRAMM. I'm going to have to stop you. I didn't ask anything related to that. You can answer your own questions on your own time.

Senator KERRY. If I can say, Mr. Chairman, in deference——

Senator GRAMM. I'm sorry, I don't yield and what I am proposing here is perfectly reasonable.

Senator KERRY. I'm not trying to take your time.

Senator GRAMM. I'm saying you recused yourself, OK. The question is, I'm asking you, not did it make any difference, but did your recusal have anything to do with Madison Savings & Loan, Madison Guaranty Savings & Loan?

Mr. ALTMAN. First of all, Senator, about 30 seconds ago, you said did it have anything to do with the case. My answer is it couldn't have had any bearing whatsoever on the case so, no, not really. You can.

Senator GRAMM. Did you ever recuse yourself on any other case?

Mr. ALTMAN. Sure—oh, I'm sorry. I've recused myself on other matters, I don't think on any other case.

Senator GRAMM. So this is the only S&L case you've recused yourself on.

Mr. ALTMAN. I'd have to go back and check but it might have been.

Senator GRAMM. Why did you recuse yourself?

Mr. ALTMAN. I recused myself because there could be an appearance, only an appearance, but there could be an appearance of conflict. There was no real conflict, but there could be an appearance of it.

Senator GRAMM. OK, Mr. Chairman.

The CHAIRMAN. Senator Dodd—Senator Kerry was also—

Mr. ALTMAN. Incidentally, Senator Gramm, if I can just say—

The CHAIRMAN. Senator Dodd.

Mr. ALTMAN.—I pulled out the letter you, the one you referred to and this is the one 41 Republican Senators and there is the word "recusal" is not in here.

The CHAIRMAN. We will make it a part of the record without objection.

Senator GRAMM. Could I have a copy of it so I could look at it?

Senator DODD. Mr. Chairman, just a couple of points of observation if I may. One, regarding the Jay Stephens matter, I think the record ought to reflect that there was an exchange and apparently a phone call—and Mr. Altman, you correct me if I'm wrong here—a phone call from people at the White House expressing their disappointment over the manner in which you recused yourself and in the context of that conversation raised the issue of Jay Stephens; is that not correct?

Mr. ALTMAN. Yes, sir.

Senator DODD. And that subsequent to that conversation or during that conversation you expressed your views as to the wisdom of trying to do anything about getting Jay Stephens removed as the attorney of record; is that not correct?

Mr. ALTMAN. I think what I said was A, Outside Counsel decisions do not come to me and B, therefore, if he has been hired, that is it.

Senator DODD. And that was it and any attempt to remove him would be an unwise move?

Mr. ALTMAN. I don't think it went beyond that. I mean I just said that's it. I don't believe they asked me to do anything about it. I don't believe they did. But I said that's it.

Senator DODD. Now, with regard to these briefing papers and the February 2 meeting, I'm somewhat mystified as to why people are making more of this than not. I suppose what some would like you to do here is just agree with them and see it as they interpret it. I can understand that. But we can stay here—

Mr. ALTMAN. I think if I sit here long enough, I'll agree with almost anything that's said.

Senator DODD. Maybe that's part of what—someone is trying to achieve here. And for the life of me, I don't think it made any difference one way or the other on this matter, but nonetheless, as I understand it, the talking points were prepared by Ms. Hanson; is that not correct?

Mr. ALTMAN. Yes, sir.

Senator DODD. Ms. Hanson's recommendation to you was to recuse yourself.

Mr. ALTMAN. Yes, sir.

Senator DODD. You stated earlier today that one of the interpretations of her putting this on there is that she was, maybe, trying to push the issue along a little bit so you might do it earlier rather than later.

Mr. ALTMAN. I think she wanted to give me a prod, yes.

Senator DODD. You said that hours ago it seems to me, in this hearing. You made that point.

Mr. ALTMAN. I think so.

Senator SARBANES. I think several hours ago—can I make an observation?

Senator DODD. I'll be glad to yield.

Senator SARBANES. It seems to me often talking points are prepared, you don't use all the talking points.

Senator DODD. I was just going to make that point. I get them every day and I presume my staff and the people who work hard on it would like me to read every word and recite every wonderful observation they have put in it, but God forbid I did and I say that with all due respect to my staff. Usually I'd love to tell them I took them home every night and read them in detail and was fully prepared every morning. What usually happens is that I'm racing between meetings, I'm grabbing at my hand, I'm trying to speed read the thing to get the major points. If I know at least the group I'm talking to, I consider it a victory and I suspect I'm not much different than most people in this town.

The CHAIRMAN. Senator Dodd, the Special Counsel here keeps giving me talking points and I keep not using them.

Senator DODD. The suggestion somehow that someone in this town would take talking points and go down and adhere to them religiously, taking every bullet and reciting it verbatim is just ridiculous. I don't know of anyone who does that nor should they for that matter. Again I've listened to that point over and over and over again here, and now at a 10½, 11-hour harangue.

Let me state as an observation and I made the points earlier, and I think Senator Boxer did it as well. We're all asked to draw conclusions and certainly facts are important and testimony is important, but I too note, Mr. Chairman, that this witness has now been with us going on 12 hours. In some ways this is almost like an inquisition rather than a hearing.

But the fact of the matter is, you have to look at the totality of everything and I would be more impressed if at some point in the last 10 hours or so, that someone on the other side would have recognized your contributions, Mr. Altman, over the years. I made the point earlier, you served in two Administrations, and have been confirmed unanimously by the U.S. Senate on two different occa-

sions. You know many of the people at this table. You've worked with them over the years.

That's not to suggest that you ought to be forgiven or pardoned if you've done something wrong, but to have some sense of proportionality, some sense of humanity in all of this as we consider people. You mentioned earlier it was your 9-year-old son's birthday today. I would just tell you, from this one Senator's perspective, some day he'll look at this testimony. Some day he'll read it and it's sad that you were not able to spend the day with him.

This Senator's observation after almost 12 hours is that his father did a damn fine job. Some day I hope he recognizes that and I think he will.

You didn't answer everyone's questions up here to the satisfaction they'd like. But I think you've deported yourself well. We've got witnesses tomorrow, we'll have witnesses the next day and go over it. It was a tragedy to allow ourselves be put in a situation where you were simultaneously wearing the hat of Deputy Secretary of the Treasury and the CEO of the RTC. I think that, in itself, creates the major part of the problem and hopefully that can be corrected.

But my perception, having been through and listened to all of this, and I don't think I've missed a minute of it—either your testimony or late last evening or all day Friday, my sense is that, despite some admissions which you've made about how this was handled in some cases, on the fundamental bottom line issues you handled yourself well. I know some are going to be calling for your head and I think that is a mistake.

There will even be some of your friends who think you should quit and I wouldn't blame you for making that decision. I hope you don't because, I think, we need good people in Government. You've done it twice, you've stepped forward and you've served, and you've served well. Almost everybody on this Committee knows it. They have worked with you over the years. I think we send a dreadful signal in trying to attract people to come to Government, that because some would like to score points in all of this, that we drive people out.

I may be alone. I may be the only person on this Committee who feels that way, but I don't intend to have this hearing end at this hour, at 2 in the morning, in this town, and not express my feelings and my views, especially having listened to your testimony for the last 12 hours.

Mr. Chairman, I yield back the balance of my time.

Mr. ALTMAN. Thank you, Senator Dodd, I appreciate that very much.

The CHAIRMAN. Mr. D'Amato.

Senator D'AMATO. Mr. Chairman, I didn't intend—I indicated I was not going to speak any longer, but I have to tell you, you have to be deaf, dumb, and blind to believe that the witness did not understand that the issue of recusal is one that should have been brought up when asked repeatedly at the hearing of February 24 and this evening and in light of the testimony of Hanson, Nye, and Steiner's comments, and the recommendations of the Secretary. And this wasn't just some briefing book. We all get briefing books and you carry them around and you are lucky to get a chance to



read them. These were specific points that he spoke to, every one of them including, at that meeting of February 2, the question of recusal. And the most heated and contentious issue at that meeting was recusal and it was important for some people and I agree.

And I'm willing to agree with my friend, Senator Kerry, it may not have been of import for the witness, not nearly as it was to Bernie Nussbaum. Not nearly as it was to those who were afraid to lose control and who questioned Kulka. Altman found himself in a tough position and I have simply informed him of that this evening. But don't characterize our bringing these points up as cruel, inhuman, or almost frivolous because I resent it. And that's the second time you've done it and I don't like the——

Senator DODD. Senator, you can express——

Senator D'AMATO. This is my time. This is my time and let—I'm going to finish.

Senator DODD. You have all day, Senator, you have all day.

Senator D'AMATO. OK.

Senator DODD. I don't expect any different from you now.

Senator D'AMATO. That's right and I'm going to give it right back to you.

The CHAIRMAN. Gentlemen, if I may——

Senator D'AMATO. The fact is, I'd like to conclude, Mr. Chairman, because you've been more than generous, but the fact is——

The CHAIRMAN. It's your time and I'll allow you to do that.

Senator D'AMATO. The fact is, I don't believe that we should be characterizing each other's presentations in the manner that some have. I haven't attempted to pull down anybody else's characterizations. I don't think we add anything to this. And I'm willing to say I feel sorry that Mr. Altman found himself in that position. I think we recognize that there was tremendous pressure there. The facts indicate it. But this is not an attempt to demean him or to harm him. It is an attempt to get to the facts.

I have to tell you something else, I think that a number of questions that I raised after having advised him the night before that I was going to raise them, the issue of recusal, the issue of contacts, that he should have been in a position to give us more responsive answers than came and if not on the 24th, certainly earlier than they eventually did and that's my point.

And last but not least let me say this, I regret any personalization with my friend, the Senator from Connecticut. We do get heated up. He's got the same kind of passion and blood running through his veins that I do and so I apologize if, in my response, I went further than I should have and I hope you'll accept that because I think we both have jobs to do. We both have our beliefs and I think that the Chair has done an outstanding job in giving all of us and preserving all of our rights.

Senator SARBANES. Mr. Chairman, what time is the meeting in the morning?

The CHAIRMAN. We are starting tomorrow morning—we're scheduled to start at 9:30 a.m. Earlier I mentioned the recording clerks that have been so steadfast, there are two of them, Patty Zuber and Julie Baker. And I acknowledged one, but not the other, and I want to acknowledge both. I think we've had a full discussion. I

know everybody here wants the last word. Do we really need another last word here or can we bring this hearing to a conclusion?

Senator GRAMM. Mr. Chairman, I'm willing to forgo some substantive questions, but I would like to make a statement.

The CHAIRMAN. You certainly have that right. I would hope that—

Senator GRAMM. Mr. Chairman, let me first say that I'd intended to ask a question about what I believe were four substantive contacts. The day before Mr. Altman testified on the 23rd, he called Harold Ickes at the White House. That was clearly a contact. Harold Ickes called Mr. Altman and was transferred to Josh Steiner. That clearly was a contact. At Mr. Altman's request, Ms. Hanson called Bernie Nussbaum. That was clearly a contact. And Mr. Eggleston called Ms. Hanson to ask a question about what Mr. Altman was going to say in the testimony, which was clearly a contact. There were 4 contacts the day before the testimony, and three times at the hearing the question was asked about contacts, and these four weren't mentioned.

I could go on to try to clarify whether Ms. Hanson on her own volition would have ever called up Bernie Nussbaum and set up a meeting of the nature she did last September. I would recount her testimony and question the logic that she could have or would have done it on her own. I'm not going to do that, given the late hour.

But I want to conclude by simply asking Mr. Altman if he will submit in writing, based on everything that is now known, he knows or he can find, the answers to the questions that were asked on the February 24 hearing. One final letter where you go back, your staff goes back, reads the questions and answers the question in writing to complete this testimony. Are you willing to do that?

Mr. ALTMAN. Sure.

Senator KERRY. Which question?

Senator GRAMM. All the questions that were asked that were not fully answered there.

Mr. ALTMAN. You mean on February 24?

Senator GRAMM. That's right. Now, Mr. Chairman, let me say Senator Dodd raised the issue about Mr. Altman. I want to make my comments. To some extent, when you are doing these things you are talking about human beings, and I want to say how I feel and what I think the issue is here. First of all, there is no better or brighter person in the Clinton Administration, in my opinion, than Roger Altman. He brought to this town a lot of ability and in terms of his service in the functions where he has been a policy-maker, I have no complaint with what he has done nor have I had any intention here to do anything other than to focus in basically on one issue. And the issue is, as Members of this Committee, do we have a right to expect people who testify before our Committee to answer our questions fully and honestly.

Now I believe and we all have our own beliefs—great thing about living in America—but I believe that objective people who have watched this whole hearing, who have looked at all the facts, are going to conclude that Roger Altman may be brilliant, he may be accomplished, and he may be a very important member of the Clinton Administration and my guess, Mr. Altman, is if you're not in the Clinton Administration in the future, they're going to have a

hard time finding somebody as good as you are. But I believe that an objective observer will conclude that Mr. Altman has not told us the truth, the whole truth and nothing but the truth. That on the 24th in that hearing, efforts were made, and they were categorized over and over again by people who were writing their own opinion, people, in Mr. Steiner's case who were on Mr. Altman's staff, that Mr. Altman skillfully dodged. It is clear, I think, to anybody who reads the transcript that questions were not answered, that when questions were narrowed to yes and no, that noes were given when clearly the answer should have been yes. And when you go back it's not one problem. My guess is, given that we know of 40 or more, there were likely 100 contacts.

And so I'm saying here that this has nothing to do with the work of a man or his sincerity on his job, but it has everything to do with the veracity of what he says in testimony before a Committee of the U.S. Senate. I believe on that ground that there are clearly problems here, and I think that any objective observers, if they strip away partisanship, preference, friendship, anything else, has to conclude that in the testimony on the 24th the standard of veracity was not met. I believe even tonight that this testimony has not been complete, by design, and that it has not been to the point of the questions asked, and that it has not been truthful, and I think that it is verifiable—

Mr. ALTMAN. Senator I just want to be sure I understand. Is your position that my testimony over the past 10 or so hours has not been truthful? Is that your position?

Senator GRAMM. I would say that if I looked I would say—

Mr. ALTMAN. Is that your position, Senator?

Senator GRAMM. —Let me give you one example. My position is and I don't know that you are asking the questions but I'd be happy to answer this one. When you said in response to Mr. D'Amato's question that you raised recusal spontaneously and you blurted it out, I believe that any objective observer looking at three documentations, with sworn statements, and looking at logic would say that that is not the case, that that was not a truthful answer. I would say that. I have not asserted here tonight that that is on par with the 24th meeting, but I personally believe it and I believe objective observers would believe it.

I also think that someone would have a grudging admiration for your ability not to answer a question. It is unrivaled in all of the hearings I have ever sat in and I admire it as a skill but I do not think it serves you or the process well.

The CHAIRMAN. Mr. Altman—

Senator KERRY. Mr. Altman, did you want to respond?

The CHAIRMAN. I'm certainly going to afford you the opportunity to make any response you want to make.

Mr. ALTMAN. No, I don't have any response.

Senator KERRY. Mr. Chairman.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Mr. Chairman, I sure hope my colleagues on the other side of the aisle are going to apply the same standard to their support for people like Oliver North and others around the country. They shouldn't be signing letters, or raising money, or supporting his candidacy based upon the standard they have set here, but

then double standards have never stopped the Senate in the past. I would like to finish.

Senator GRAMM. May I just inject here? I never said what Oliver North said before Committee.

Senator KERRY. Oliver North lied to the U.S. Congress. That is a known fact. He admitted it, he's proud of it, and he campaigns on it and I hope you will hold the same standard.

Senator GRAMM. I didn't say that was——

Senator KERRY. I hope you will apply the same standard, Senator.

Senator GRAMM. If Mr. Altman runs for the Senate, I might support him——

Senator KERRY. I believe I have the floor, Mr. Chairman.

Senator GRAMM. —but when he's testifying before the Senate——

Mr. ALTMAN. Senator, I can tell you unequivocally—even this one I think you'll accept the straightforwardness of the answer—I'm never going to run for the United States Congress.

Senator GRAMM. I suspect that's the case.

Senator KERRY. Mr. Chairman, this has been a long, long process, people are testy but, we've tried to get at the facts here. I think it's wrong to be drawing conclusions, as the Senator from Texas has just done, without having heard from witnesses over the next few days, without having heard the explanations or the nuances of other people who may shed light on what Mr. Altman has said, who incidentally corrected the testimony that you're holding him accountable for, who corrected it to Senator Riegle and publicly a few minutes ago. But that doesn't seem to stop you or others. And it bothers me greatly, if we're going to have a fair fact-finding effort here, there ought to be some effort from our colleagues to, at least, acknowledge certain realities as we go along.

I mean this is here because RTC procedures were not followed. Are my colleagues concerned that a U.S. Congressman published almost in full RTC sequences and notes from an investigator? That it has been identified publicly as Jean Lewis? Are we concerned that in a campaign in 1992 a candidate had an article appear about this issue? And subsequently there were criminal referrals and a U.S. Attorney may have been pressured?

Now if that's true——

Senator GRAMM. Is that a Senator you are talking about?

Senator KERRY. No, but I'm saying—no, candidate Clinton, this appeared—this is a matter of fact and it's appeared publicly. Now, if you're in the White House and you know there is somebody in the RTC who has already leaked information about you and you know by virtue of public accounts, at least to the best of your ability to believe them because they're in the newspapers, that a U.S. Attorney might have been pressured just prior an election to try to indict you.

All of a sudden you are hearing through these other public sources that the RTC was hell-bent-for-leather to investigate something that happened years ago in Texas or Arkansas or something, would you not, in the norms of political behavior in Washington, have some concern that it be fair, that there be some sort of process that you don't have this person who was willing to leak, this person who was willing to pressure, then engaged in a hell-bent-

for-leather, get-them-at-any-cost effort. Now, I don't know if that's happened.

Senator GRAMM. Would you like me to respond to that, I can do it very briefly. The answer is I'd be very concerned, but given I wasn't born yesterday, I'd stay way far away from it.

Senator KERRY. I agree with it but let's get there, you see, because what we've heard are a whole set of other kind of conspiracy theories and concepts. I'm not prepared to draw a conclusion yet, but I have kind of a basic commonsense streak that tells me that this is not what a lot of people have tried to make it out to be, that some folks may have had some bad judgments. Mr. Altman has very candidly said, he should have recused himself, he should have stepped back, he should have done it in writing, and he should not have gone to the meeting and so forth.

But it seems to me what you may have here more than some grand conspiracy is a bad job of some damage control based on some paranoia about people in the RTC who might be on a runaway express train. Now, I don't see any evidence of any more than that. And I don't think you can show us a lot of evidence of more than that.

Maybe some people in the White House behaved not so well in how to deal with this, but nobody interfered with it. His recusal didn't affect anything one way or the other. The President signed the statute of limitations that continued this. The White House called Mr. Altman and they said we're concerned about your testimony. It's not out in full.

I don't want to draw a conclusion tonight. I think also that it's wrong for you to draw a conclusion tonight. It is appropriate for us to sit reasonably to measure and to judge this, and I just think we ought to do that and we obviously shouldn't do it at 2 a.m.

The CHAIRMAN. Well, I think we've had a good full day and Mr. Altman, let me say to you and your family who's been with you throughout the day, I know it's been taxing but necessary as you well know. You indicated a desire to stay tonight as long as necessary and you've done that. We do have other witnesses to hear from. I would just express a view, before we recess until tomorrow morning, that I do think we need to hear all the evidence. We've got to hear all the witnesses, we've got others to come, and in due course, all of us will be called upon to make judgments. When we have all the information, I think that's probably the time to do it.

The Committee stands in recess until 9:30 a.m. tomorrow morning.

[Recess.]

[Whereupon, at 2:05 a.m., the hearing was adjourned, to reconvene at 9:30 a.m., on Wednesday, August 3, 1994.]

[Prepared statements, response to written questions, and additional material supplied for the record follow:]

**PREPARED STATEMENT OF JOSHUA L. STEINER****CHIEF OF STAFF, U.S. DEPARTMENT OF THE TREASURY**

Mr. Chairman, Congressman Leach, Members of this Committee: My name is Joshua Steiner and I serve as the Chief of Staff at the Department of the Treasury. Before joining the Treasury Department, I was Executive Assistant to Timothy Healy, the President of the New York Public Library.

I am here today to answer your questions and help clarify any outstanding issues concerning contacts between the Treasury Department and the White House on the Resolution Trust Corporation's investigation of Madison Guaranty. I have cooperated fully with all investigations into this matter, including those conducted by Mr. Fiske, the Office of Government Ethics, and congressional committees.

Several Members of this Committee have commented on my personal diary and, if I might, I would like to make one brief point about it.

I started keeping this diary nearly 6 years ago. I would write in it fairly infrequently—sometimes every 2 weeks, other times 6 weeks would go by before I made an entry. Indeed, some of the entries of interest to this Committee describe events that occurred nearly a month before I wrote about them.

I made no effort to check the accuracy of my diary because this was never intended to be a precise narrative or a verbatim account of what took place. At times, it included impressions of meetings that I did not even attend. It was, more than anything, a way to reflect on events and draw lessons from my personal and professional experiences.

Today, you will ask me questions under oath and I hope my answers will clarify the entries I made in my diary. Since the time I first made these entries, I have had a chance to reflect about precisely what I know.

I wish that my diary was more accurate, but I take my responsibility to this Committee very seriously and I feel obligated to present the facts as truthfully as I possibly can.

Thank you.

**PREPARED STATEMENT OF J. BENJAMIN H. NYE****SPECIAL ASSISTANT TO THE DEPUTY SECRETARY****U.S. DEPARTMENT OF THE TREASURY**

Mr. Chairman and Members of the Committee: My name is Benjamin Nye and I welcome the opportunity to appear here today.

I would like to provide you with a brief summary of my background for the benefit of the Committee and an outline of my role in the matter at hand. Prior to working at Treasury I worked in Boston as a business consultant in the strategy group of a firm called Mercer Management Consulting. I left in early February of 1993 to begin work in public service, and have since worked at the Treasury Department for the past 1½ years.

I first joined Treasury as the Special Assistant to the Assistant Secretary for Economic Policy. There I served as both a chief of staff, managing 54 people and the office budget, as well as a policy advisor to the Assistant Secretary on issues such as the 1993 budget bill, the earned income tax credit expansion, the auto task force, and several other issues.

I then succeeded Josh Steiner as Special Assistant to the Deputy Secretary. I began working for Roger Altman in early September of 1993, and I still do so today.

My involvement in events related to Madison Guaranty comes through meetings I attended within Treasury and at the RTC. I did not attend any of the White House meetings that have been the subject of these hearings. Furthermore, I did not have any phone conversations with anyone at the White House on this matter. And finally, I did not know of the Treasury/White House meetings which occurred before February 2nd and which did not include the Deputy Secretary himself.

In conclusion, I would like to state for the record that I have the utmost respect for the integrity of the people with whom I work at Treasury. Roger Altman, Jean Hanson, and Joshua Steiner are friends yes, but more importantly I know them to be honest, forthright, and credible. I trust that at the conclusion of these hearings you will know them to be so too.

Now, I would be happy to answer any questions you may have.

**PREPARED STATEMENT OF DENNIS I. FOREMAN**  
**DEPUTY GENERAL COUNSEL, DESIGNATED AGENCY ETHICS OFFICIAL**  
**U.S. DEPARTMENT OF THE TREASURY**

Good morning, Mr. Chairman, Members of the Committee.

My name is Dennis Foreman and I am the Deputy General Counsel of the Treasury Department. I have been in the public service for nearly 24 years. I am a Vietnam veteran, having served in the U.S. Army's Airborne Special Forces. I was with the U.S. Foreign Service for 5 years, including postings to Beirut, Tunis, and the U.S. Mission to the United Nations in New York. I have worked in four Executive Branch legal offices. In 1989, I was selected to be the Assistant Legal Advisor for Ethics and Personnel at the Department of State, which was my first position with ethics responsibilities. In January, 1991, I was appointed to the Treasury Deputy General Counsel position, which carries with it the responsibilities of the Designated Agency Ethics Official.

I am appearing here today at the Committee's request to discuss matters pursuant to Senate Resolution 229. Because of my position as the Senior Ethics Official at Treasury, I have certain responsibilities. To put those responsibilities in proper perspective, I think it is appropriate to briefly review some of the events in which I was involved.

My involvement in, and knowledge of, the events leading up to the February 2, 1994 meeting at the White House was very limited. In January, 1994, I read press stories about Madison Guaranty which stated that some type of civil claims were being reviewed by the Resolution Trust Corporation. I also specifically remember reading a letter from Senator D'Amato to Mr. Altman dated January 25, 1994, that referred to civil claims involving Madison, the statute of limitations, and "tolling agreements." Senator D'Amato's letter noted that there was a deadline for action in late February. At that time, someone—I have no recollection as to who it may have been—explained to me that these terms related to normal RTC procedural actions relating to insolvent thrifts. I was told that the civil claims were being reviewed under routine procedures within the RTC. I believe I also read this comment in Mr. Altman's February 1, 1994, response to Senator D'Amato.

I also understood that action on the substance of the civil claims might eventually be presented to the interim CEO for decision, although no proposed action was yet on his desk. This, then, brought up the question as to whether Mr. Altman should recuse himself from consideration of the matter even before it arrived. In late January or early February, Jean Hanson asked me for my views on whether Mr. Altman should recuse himself because of his friendship with the President. I told her that I had not undertaken any legal analysis to determine whether there was a legal requirement that he recuse, but that my own first reaction was that he should recuse himself. Ms. Hanson commented that she agreed with me.

Sometime after our first discussion, Ms. Hanson told me that she had discussed the recusal with Mr. Altman, and that he was "leaning" toward recusal. In mid-afternoon of Wednesday, February 2, Ms. Hanson entered my office and said something like: "We're going over to the White House in a few minutes. Please look at these talking points." I remember scanning the points quickly and recognizing that they noted generally the same procedural points regarding the statute of limitations and tolling agreements that I had seen mentioned previously in the press and in Senator D'Amato's letter. The talking points did not mention anything about the substance of the Madison civil claims.

I believe that I said aloud something like "This is OK. This is public information." I based my comment in general on information had seen in the press and the congressional letters. I did not believe that this was "nonpublic information." If it had been, I would have considered the matter further in terms of the Standards of Conduct, particularly section 5 C.F.R. 2635.703, the "Use of nonpublic information."

The final talking point indicated that Mr. Altman had already decided to recuse himself. I remembered that Ms. Hanson had told me that he was "leaning" toward recusal, and I questioned whether he had made a final decision. I do not remember Ms. Hanson's response, if any.

My review of the talking points and the brief discussion with Ms. Hanson lasted no longer than 2-3 minutes and my analysis centered on the public information issue. Based on the talking points I reviewed, I do not believe that the meeting violated any ethics regulation. The Office of Government Ethics has agreed with my conclusion.

Based on press comments, there seems to be some confusion about the issue of appearance of impropriety. For there to be an appearance that leads to a violation of the regulations, it is not enough that there is public controversy, or criticism, or even a public uproar. The standard, under the regulations, is whether a reasonable

person, with knowledge of the relevant facts, would believe that the regulations have been violated. According to the talking points reviewed, the information to be discussed at the meeting was procedural and generally public. Moreover, to the best of my knowledge, no action was taken relating to the actual handling of the substance of the Madison civil claims themselves. Hence, I do not believe that a reasonable person with knowledge of the relevant facts would believe that the ethics regulations were violated. Again, I am pleased that the Office of Government Ethics reached the same conclusion.

On February 3, Mr. Altman received a letter from Congressman Leach, asking him to confer with "Treasury's General Counsel and Ethics Officers" to consider a recusal from the Madison matter. On the evening of February 2, or on February 3, Ms. Hanson told me that Mr. Nussbaum thought that I, as the Treasury ethics lawyer, should talk to the Senior Ethics Lawyer for his office, Beth Nolan, about the question of Mr. Altman's possible recusal. I talked to Ms. Nolan on February 4 and informed her that Treasury, RTC, and OGE were going to undertake the legal analysis related to recusal. I also informed her that I was only going to discuss procedure, and that I had no knowledge about any of the substantive issues related to Madison. Ms. Nolan's notes indicate that we had a similar phone conversation on February 9. The only comment I remember Ms. Nolan making on this subject was that the conclusion could become a precedent for similar circumstances in the future.

Later, on February 4, I went to the Office of Government Ethics, and had a similar conversation with Donald Campbell, the Deputy Director, and Gary Davis, the General Counsel. I noted again that I had no knowledge of the substance of the civil claims relating to Madison, explained the procedural framework, and said that I had informed Ms. Nolan that we were going to analyze the legal issues with OGE and RTC ethics officials. The OGE officials said they would work with Treasury and the RTC on the question.

A few days later, Mr. Altman, Ms. Hanson, Ellen Kulka, RTC's General Counsel, and Arthur Kusinski, RTC's Senior Ethics Official, and I met with Mr. Altman to discuss the recusal issue. Mr. Altman directed us to ensure that our legal research and analysis was complete, thorough, and accurate. In the following days, I worked on, and concurred in, the legal analysis and ethics opinion that was sent to Mr. Altman on February 18, 1994, by Mr. Kusinski. The Office of Government Ethics also concurred in that opinion. In essence, that opinion said that there was no legal requirement that Mr. Altman recuse himself from Madison related matters. I sent Mr. Kusinski's memorandum with my own cover note reiterating my concurrence to Mr. Altman on February 23 to ensure that there was no doubt about Treasury, RTC, and OGE consensus on this issue.

I believe that there is another source of confusion in the public discussion about these meetings. Do they present issues of "ethics" or questions of "judgment." The word "unethical" has a connotation of something improper. The word "judgment" goes to the subjective reasoning power of human beings and possible human error, *not* improper behavior.

In my years as an ethics lawyer, I have always said to Federal employees that if they check with us about some proposed action, and give us information about the context, and if we don't object to the activity, then criticism for the ethics call should shift to the ethics lawyer. For the February 2 meeting talking points, that ethics lawyer is *me*. I had an opportunity to object to the meeting, but didn't do so. I didn't object because there was nothing objectionable. It is not only unfair but inaccurate to criticize Mr. Altman or Ms. Hanson for doing something "unethical" in relation to the February meeting. That is my responsibility.

That leaves the issue of judgment. As I noted before, I suggest that this be analyzed as a question of human reasoning power, rather than one of improper behavior.

Finally, one more comment. In my experience, ethics issues arise all the time in Federal agencies, both as considerations in decisionmaking and in connection with financial disclosure and other requirements applicable to officials appointed by the President. Secretary Bentsen introduced me to his new staff on the morning of January 21, 1993, and turned that first staff meeting over to me for a 90 minute seminar on Government ethics. The Secretary made it clear that ethical considerations were a matter of great importance for him. Based on my frequent interaction with the senior officials at Treasury for the last 18 months, I believe that those officials have worked hard to conform to the many complex ethics rules applicable to senior Federal officials. I have the highest regard for their ability, integrity, and professionalism.

Thank you, Mr. Chairman. I will be pleased to respond to any questions by Members of the Committee.



**PREPARED STATEMENT OF ROGER ALTMAN**  
**DEPUTY SECRETARY, U.S. DEPARTMENT OF THE TREASURY**

Mr. Chairman and Members of the Committee: My name is Roger Altman. On January 21, 1993, I was unanimously confirmed by the Senate as Deputy Secretary of the Treasury and have served in that capacity since then. That was the second time I was unanimously confirmed to serve in the Treasury. Over the 4 years of the Carter Administration, I served as Assistant Secretary for Domestic Finance and worked closely with this Committee at that time, especially on the Chrysler and New York City rescues.

I feel privileged to have served in these capacities. Public service has always been an important part of my life, as it was for my parents. Over those years, and in those positions, I may have made some poor decisions or other mistakes, but my integrity has never been questioned.

Let me address first the very basic issue as to whether any effort was made by Treasury or White House staff to impede or alter in any way the criminal or civil processes of the RTC as they relate to Madison Guaranty. I include within that question, the issue of whether any information was improperly imparted to the White House.

To the best of my knowledge, there was no effort on the part of any White House or Treasury staff to impede or affect in any way the RTC investigations. Moreover, no member of the RTC or Treasury staff, to my knowledge improperly imparted any information about Madison Guaranty to the White House. I did not do it myself, and I am not aware of anyone else doing so.

Three independent investigations have addressed these questions. First, we have the results of the legal investigation by the Independent Counsel, Mr. Fiske. All issues involved in his investigation were fully and thoroughly investigated, including a review of my testimony before this Committee. And we are all familiar with his conclusions.

There is also the report of the Office of Government Ethics which Secretary Bentsen released on Sunday. This concluded that there had been no unethical activities on the part of any Treasury personnel. The Office of Government Ethics is an independent body. As with Mr. Fiske, it had access to all documents and took testimony, under oath, from all those involved, including your witnesses.

There is also the report of Mr. Cutler, White House Counsel, on the question of any unethical behavior by White House staff. He concluded there was none.

These investigations have confirmed that the Clinton Administration did not interfere in any aspect of the Madison Guaranty case. There is no evidence, I repeat, no evidence that either the criminal or civil aspects were compromised, delayed, or altered in any way. Simply none.

I believe that the conclusions of these three separate investigations are absolutely correct. And I ask the Committee to bear in mind the larger context of my involvement in the handling of the Madison matter by the RTC:

- Most importantly, I never made any decisions with respect to the Madison case;
- I was committed, as I told the White House staff and others, to have the RTC General Counsel, Ellen Kulka, make whatever determination was necessary with respect, to any civil claims arising from Madison;
- My meeting with the White House staff on February 2 was cleared by both Treasury General Counsel and the designated Treasury Ethics Officer;
- I obtained two written ethics opinions stating that my recusal was not required; and
- I recused myself from the Madison matter on February 25th without ever having made any decision in that case.

Second, let me turn to what I believe is the most important issue between this Committee and me; i.e., my testimony of February 24.

I do not have perfect recall, and I may have heard or understood questions in a way that was not intended by the Senator asking the question. If I did so, I sincerely apologize to all Members of the Committee.

But I want to be clear. In no way did I intend to mislead or not to provide complete and forthright answers. I have too much respect for this Committee, for our system of Government and for the need for full and forthright communications between the Executive and Legislative Branches of our Government.

**The Treasury/RTC Relationship**

Let me turn to describing the interaction between the Clinton Administration and the RTC.

First, when Mr. Casey resigned as CEO in March 1993, the Administration had only taken office 5 or 6 weeks beforehand and had not yet chosen its nominee for

this position. Indeed, only two U.S. Treasury officials had even been confirmed—Secretary Bentsen and me.

Secretary Bentsen asked me to assume this position until a permanent CEO was nominated and confirmed. As others will attest, I neither sought nor wanted this assignment, but accepted it because there was no one else. And, during the discussions about my appointment, there was no mention by anyone of Madison Guaranty.

In June 1993, we submitted a nomination for permanent Chairperson of the RTC. Our expectation was that he would be promptly confirmed, and I could leave the agency.

Our nominee was a Republican, and an active one. He was well qualified for this position, and the Administration supported his nomination throughout the congressional session. But, the nomination was not taken up by the Senate. After Congress completed its work last Fall, he withdrew his name from further consideration.

Let me make an observation about this situation. The Administration nominated an active Republican for the top RTC job. That is not consistent with trying to exert undue control over the agency or one of its investigations.

When I became RTC Chairman, the agency was managed on a day-to-day basis by its two Senior Vice Presidents—Bill Roelle and Lamar Kelly. Almost all members of the RTC senior staff reported to one or the other. These two men were appointees of Mr. Casey, who, in turn, had been appointed by President Bush. They were thoroughly professional and were retained throughout all of 1993. Each then left at his own initiative to rejoin the FDIC.

Retaining the two Senior Vice Presidents who we inherited is also not consistent with trying to exert political control over the agency. Moreover, these two individuals had no motivation to show favoritism on Madison Guaranty, and I do not believe that they did so.

During my tenure at the RTC, I was also serving as Deputy Secretary of the Treasury. In that role, I was deeply involved in policy initiatives ranging from passage of the President's Economic Plan to co-chairing the U.S.-Japan framework negotiations. These responsibilities permitted me limited time for RTC matters.

My RTC involvement typically related to broad public issues, like the long struggle to pass the RTC Completion Act last year. At no time did I ever ask to be briefed, or was I briefed, on any investigation or the status or outlook for any case. Not once. My role was to provide general oversight at twice-weekly RTC Senior Staff meetings. These involved 8–10 RTC officials. They were the only RTC employees with whom I ever had personal contact of any kind.

### **The Criminal Referral**

Last Fall, Bill Roelle or Jean Hanson, or both, advised me, because of impending publicity, that the RTC was considering referring the Madison matter to the Justice Department for criminal investigation and that the referral could mention the President and First Lady in some capacity. I had never asked to be involved in Madison-related matters or any other RTC investigation. Indeed, until that time, I had known nothing about Madison except through the press. And, as I said, I believe they advised me because publicity was imminent.

I was also advised that such referral decisions are typically made at the regional office level. I responded by saying that this referral decision should be made in exactly the same fashion as many other case. If that meant the regional office level, then that's where the decision would be made.

There were no further conversations with me on this subject. I ultimately learned through the press that the case indeed had been referred to the Justice Department.

I do not believe that I suggested that the White House be informed on any facts relating to this referral. But, if Ms. Hanson did advise the White House of an impending press leak on it, I see nothing improper in that.

Mr. Roelle has testified that he advised me of a possible criminal referral as early as March 1993. I respect him but I do not recall it.

There have also been questions on press articles on Madison which I may have fixed to Mr. Nussbaum. He has said that he has no recollection of receiving them. I don't recall sending them either. But there would be nothing wrong with sending press articles to anyone. And, there isn't a shred of evidence that I conveyed sensitive information then or at any other time.

### **The February 2 Meeting**

During our meeting at the White House on February 2, we conveyed no information on the facts, merits, or outlook for the case or the statute of limitations decision. That would have been impossible because I had no information on those matters. I never had such information on Madison, or any other case, and don't have any today.

The only information we provided which related to the case involved a description of the generic and procedural alternatives which face the RTC on any expiring statute of limitations situation, and indeed faced it on Madison. All of that information was in the public domain. It had previously been provided to representatives of the Congress, upon request. And, it was in the hands of the media. The Washington Times, for example, had already printed a summary of these procedural alternatives.

During the months of December and January, there were at least seven meetings or conversations between RTC officials and House and Senate staff, all requested by the latter. Three of these involved Senator D'Amato's staff. All of these centered around the statute of limitations issues and the supplying to Congress of documents related to Madison.

Moreover, from December 1993 through February 1994, a series of Congressional inquiries regarding the pursuit of civil claims arising from the Madison failure came directly to me.

They included a letter on January 11 from forty-one Republican Senators and a letter on January 25 from Senator D'Amato and a letter from Congressman Leach. These urged, in Senator D'Amato's words, "take action to voluntarily seek agreements from potential parties to pre-initiated legal action . . . I can see no reason for further delay on your . . . please provide me with your conclusion immediately."

The congressional inquiries directed to me, of course, required a response. Prior to receiving them, I was not familiar with the statute of limitations issues. I am not a lawyer and, for example, had never previously heard of a tolling agreement.

To assist in preparing responses to congressional inquiries, Ellen Kulka, RTC General Counsel, briefed me on these issues. I learned that the RTC had to make a decision by February 28. The alternatives were: (1) seeking a tolling agreement with the parties against whom a claim might be brought; or (2) failing that, filing a claim in court; or (3) concluding that no basis existed for pursuing a claim. This information, together with the facts relating to the criminal referral, was the sum total of information relating to Madison which was known to me.

My responses to Members of Congress were very direct. We pledged an impartial process, a thorough review and "if such (civil) claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations."

With the volume of Congressional and press inquiries rising, it seemed to me that, first, the White House should have the same information which was being provided to congressional staff and the press; and second, it was appropriate to advise the White House of events which could affect its function. Those were my only motivations.

On February 2, Jean Hanson and I went to the White House. She attended because, as Treasury's senior lawyer, she had been helping me on various RTC legal matters, and the subject matter was inherently legal. She saw nothing wrong with providing this information to the White House. I later learned that she also had the good judgment to check the ethical issues with Dennis Foreman, Treasury's Chief Ethics Officer, who also saw nothing improper. Mr. Foreman is a career appointee who preceded the Clinton Administration.

In other words, Treasury's General Counsel and its Senior Ethics Officer both approved this meeting.

The meeting lasted no more than 20 minutes. Initially, Ms. Hanson and I described the generic procedures which the RTC used in this or any other case facing an expiring statute of limitations. We recited the three alternatives, following taking points which she had prepared. This Committee has a copy of those.

This was the total information provided which related to the case. We provided no information on the status or outlook for the case. That would have been impossible because we possessed none.

The Office of Government Ethics, which took testimony under oath from all participants, said in its report that "nothing . . . suggests that (this) part of the meeting involved a disclosure of nonpublic information."

### **The Question of Recusal**

Toward the end of the February 2 meeting, I also raised the question of recusal. Let me now address that. The issue of recusal is a false one. Whether I recused myself or not would have had no impact on the case. None at all.

The facts are that I began thinking about recusal around February 1, and on February 25, I did recuse myself. No matter came to me for decision on any case, including Madison.

Moreover, prior to recusing myself, I was *de facto* recused. Decisions on cases never came to me at any time during my RTC tenure. And, I had specifically reaped

to the RTC General Counsel, before the February 2 meeting, that she would be making all decisions related to Madison, not me. Indeed, I had told her that more than once and with others present.

On February 2 when I informed the White House that I was thinking about recusal, I told them that it was irrelevant because the RTC General Counsel would be making all decisions on Madison, not me. The Office of Government Ethics report confirms my *de facto* recusal. It states that "recusal is just another word for nonparticipation." I had already chosen nonparticipation.

Nine days after the February 2 meeting, Congress passed a 2-year extension of the statute of limitations on Madison Guaranty. That made recusal entirely moot. My term as RTC Chairman was to expire (and did expire) on March 30. With such additional time, it was almost certain that the RTC would not be making any Madison decisions by my March 30 termination date.

In retrospect, I perhaps should have recused myself right off the bat. Some of this controversy would have been avoided.

But, before February 2, I had been advised that there was no legal or ethical requirement to recuse myself. I later received two written opinions from ethics officers to that effect. Moreover, it isn't clear whether recusing oneself in the absence of such requirements is entirely appropriate either. The Office of Government Ethics Report questions whether I made the right decision to recuse or, instead, had a duty to serve.

I don't think that taking 3 weeks to make such a complex decision is all that surprising. But, again, the important point is that I recused myself without ever having participated in any decisions on Madison.

### **The February 24 Testimony**

Let me address now the issues which have been raised about my February 24 testimony.

I have a deep respect for our system of Government, the role of the Congress and the importance of testimony by the Executive Branch. Our system cannot function properly without honest communication among the three branches. It is the equivalent of a sacred trust.

I testified many times during my 4 years in the Carter Administration and during my service in this Administration. And, I have always tried my best to testify in the most forthright way.

I realize that, in retrospect, my testimony of February 24 may appear too narrow or perhaps incomplete. I regret that perception and apologize for it.

I want to emphasize, however, that there was never any intent to mislead this Committee. I prepared for that testimony with 10 or 15 members of RTC and Treasury staff, and my answers were in line with the responses developed by that group.

The relevant exchanges on Madison Guaranty that day consumed less than 10 minutes. I thought that my answers were responsive to the questions I was asked. Given an opportunity to do it over again, I would have added more information. But, my intention was to testify forthrightly, as I have always tried to do. I hope I can reassure you of that today.

### **Testimony on the Fall 1993 Treasury/White House Meetings**

Let me be specific about my testimony on February 24th. Senator Gramm asked me if I or any member of my staff had any communication with the White House regarding Whitewater or Madison Guaranty. I answered that I had one substantive contact. Senator Gramm asked me to describe the substance of that one contact. I described the February 2 meeting at the White House and the discussion about the generic procedures that the RTC would follow when a statute of limitations was about to expire.

I did not mention the meetings between Ms. Hanson and others at the White House on September 29 and October 14 because I was not aware of them at the time of my testimony on February 24.

On March 2, 1 week later, I received a call from Mr. Podesta of the White House. He asked me, in effect, about "the other two meetings." I had never heard of them and told him so. Mr. Cutler's chronology is clear on this point.

I promptly called Ms. Hanson and Mr. Steiner, who confirmed the existence of two Fall meetings. Neither challenged my statement to them that I'd not heard of those meetings.

I then prepared and sent a letter to the Chairman of this Committee indicating that I had just learned of two meetings in the Fall, my impression that they related to press inquiries and that I wanted to expand the record accordingly. I believe that I also spoke by telephone to Senator Riegle before sending that letter. I wanted this Committee to have this new information immediately.

I also telephoned Senator Bond, who had asked the original question. I also wanted to advise him immediately. We had a cordial conversation and he thanked me for alerting him.

Ms. Hanson testified yesterday that her discussion in September 1993, was at my request. I do not believe that to be the case. Recollections can differ, of course, especially on events which occurred 5 months earlier. There is nothing unusual in that. I just disagree with Ms. Hanson's recollection.

Let me buttress that point this way. Ms. Hanson helped prepare the questions and answers for my testimony about White House contacts. Ms. Hanson sat directly behind me during my testimony. Just after my response to Senator Bond, I turned to her and she confirmed my answer. Then, she and I had lunch together afterwards. A week passed before Mr. Podesta's call, which alerted me to the Fall meetings. She then precleared my letter to Senator Riegle which stated that I had no prior knowledge of these meetings. At none of those times did she suggest that my recollection was faulty.

We also know that Ms. Hanson earlier prepared Q&A's indicating that I had not asked her to brief the White House last Fall. The Office of Government Ethics report, released yesterday, indicated that she also answered "no" to a similar question which OGE or its representatives asked.

I believe, Mr. Chairman and Senator Bond, that these facts confirm my testimony on February 24 that I had no knowledge of such meetings at the time of my testimony.

### **The February 2 Meeting**

The Office of Government Ethics report concluded that no non-public information on the case was provided to the White House at the February 2 meeting. Its investigation included testimony, taken under oath, from all participants in that meeting. Mr. Cutler's report, based on a separate set of interviews with the same individuals, reached the same conclusion. In addition, had sensitive information on any aspect of the case been conveyed, Mr. Fiske might not have reached the conclusion which he did.

Last Friday, Senator D'Amato charged that we had somehow advised the White House that the RTC would be unable to complete its investigation of Madison by the February 28 statute of limitations deadline. And, that this somehow signalled the President that he need not enter into a tolling agreement because the deadline otherwise would lapse.

This is categorically false. Senator D'Amato is wrong. My testimony on this point was wholly accurate. The record makes that clear.

- What I told the White House about RTC procedures is documented in my Talking Points for that meeting, which I know you have. Those Talking Points say: "It is not certain where the analysis will be completed, *but it will be before February 28.*"
- The OGE report found no non-public information was disclosed on February 2.
- Mr. Cutler's report and chronology state that no such information was given on February 2.
- Ellen Kulka, RTC General Counsel, made perfectly clear that no matter what, she and the RTC would be ready to make a decision by February 28.
- I believe, and you can ask Mr. Ickes yourself when he appears before you, that he did not intend to say I had told the White House the investigation could not be concluded by February 28.

### **Supplements to the Record**

Much has been made of my supplements to the record after the February 24 hearing. I do not entirely understand this. The Chairman said at the conclusion of the hearing that the record was open for additional information. It has always been my impression that supplementing the record was a constructive act, not a bad one.

I want to stress to this Committee that there was not a pattern of withholding or concealing information. It's really the opposite. As soon as I learned or received information, I immediately provided it to the Committee. It could not all have been provided in the first letter because I did not have it all then.

Only through a comprehensive review of files and logs was more information uncovered. Ultimately, an exhaustive review by Counsel turned up the final information.

I believe that providing such information to this Committee, as soon as it was available, was the right step to take. It was not a case of dribbling out information which I had all along. Now, let me get to the specifics.

There was only one discussion which related to the case itself and factors which would affect its outcome. That was the discussion of generic alternatives facing the RTC in regard to the expiring statute of limitations.

On February 24, Senator Domenici asked me if there were other contacts beyond the February 2 meeting. My response was, in effect, that I am not counting bumping into someone in the hall or debating stories in the morning newspapers. This clearly indicated that there may have been other contacts but that I regarded them as incidental. Had Senator Domenici or any other Member of the Committee then asked me to review any other contacts, I would have tried to recall them.

But, those additional contacts after February 2 indeed were incidental. They could not have had any bearing whatsoever on the case.

But, in the days and weeks following my testimony, it became clear that any contacts which could be remotely tied to the catch-all term "Whitewater" could be regarded differently. As a result, I carefully reviewed my calendar and my telephone calls and incidental contacts with White House personnel. I wanted to bend over backward to be as complete as possible.

I amended the record to include other incidental contacts although I did not consider them related to the substance of Madison. Initially, there was a brief telephone call to Mr. McLarty a few days after the February 2 meeting to the effect that I was still considering the issue of recusal. Similarly, around the same time, I had a brief discussion with Harold Ickes to tell him essentially the same thing. Those brief conversations on recusal could not, under any circumstances, have had a bearing on the case. I already had removed myself from any possible role on the case.

Finally, the record was also amended to advise the Committee that I had a brief discussion with Mr. Ickes the night before my testimony. I told him that I intended to announce during my testimony that I was stepping down as CEO of the RTC, as I did announce the next day. That had nothing to do with Madison.

Around the same time, I literally ran into Mr. Nussbaum in a corridor of the White House. He told me the Administration would soon be submitting its nominee for permanent RTC head. That had nothing to do with Madison either. But, I nevertheless amended the record on a voluntary basis so that there would be no question.

Some think that I consciously failed to mention these other incidental contacts. That isn't true. When we were here 5 months ago, I believed that I was responding properly to the questions. I assure you, Mr. Chairman, that there was no intent to mislead.

### **Testimony on Recusal**

Questions also have been raised as to why the subject of recusal was not discussed in the February 24 testimony.

I was not asked about recusal. There were several Q&A's in my briefing book on recusal. A team of ten or fifteen members of Treasury and RTC staff helped to prepare them. Had there been any attempt to intentionally withhold information on the recusal, one surely wouldn't have rehearsed answers on that subject with such a large group.

Had I been asked about recusal, I would have responded forthrightly. While I have reservations about Mr. Steiner's diary, as you can imagine, it confirms the view that recusal wasn't asked.

I did not mention recusal in my testimony because I did not think it was responsive to the question asked. I may have been wrong in this regard, but I had no intention to mislead or withhold information from the Committee. I believed at the time that the Committee was interested in knowing whether Treasury or the RTC had improperly provided information to the White House on the substance of the Madison case. I was anxious to tell this Committee that I had informed the White House only about the generic procedures the RTC would employ in such circumstances and about nothing else concerning the Madison Case. Indeed, I remember saying, "that was the whole conversation." And what I meant by that was that was the whole conversation with respect to what I believed was the substance of the case. No one asked me to describe everything that happened at the February 2 meeting.

I did not—and still do not—consider recusal to touch upon the substance of the Madison case. Now, of course, I see that Committee Members may feel that I was being too precise in my answer. I assure the Committee that it was not my intent to mislead or to withhold information. Indeed, I had with me on February 24 in my briefing book a series of questions and answers on recusal which I was prepared to give in response to questions about recusal. I had anticipated being asked directly about recusal, just as Ricki Tigert had been by the Committee a few weeks earlier, but I was asked no such questions.

I have read news accounts of a battle over my recusal. The total discussions which I had on recusal with White House personnel consumed approximately 10 or 15 minutes. I said that I'd been advised to recuse myself and that I intended to take that advice. I didn't say when. No one asked me not to recuse. Mr. Steiner's diary points out that, after the February 2 meeting, everyone knew that I wasn't going to play any role in the case. Yes, I did waver on the timing, but then executed the recusal 3 weeks later.

### **Conclusion**

In closing, I would like to reiterate the key facts. Three separate investigations have concluded that no legal or ethical violations occurred. No one interfered in any way with the Madison Case nor improperly imparted information on it. And, I believe that my testimony of February 24 was truthful.

I hope that these points, and the answers I'll now provide to your questions, will satisfy this Committee that my conduct was proper. Thank you.

## QUESTIONS FROM SENATOR BOND

Dennis I. Foreman

Question 1

Did you discuss with anyone whether Francine Kerner should assist the Office of Government Ethics in the investigation requested by Secretary Bentsen? If the answer is yes, with whom did you discuss this issue, and when did this/these discussion/s take place?

Answer 1

No, I did not discuss with anyone whether Francine Kerner should assist the Office of Government Ethics in the investigation requested by Secretary Bentsen.

On or about June 27, 1994, I did discuss with Ms. Kerner her suggestion that her normal supervisory relationships be modified with respect to the assistance that she would provide to OIG in connection with its investigation of the Treasury/White House contacts. I strongly agreed. Such an agreement was reached on June 27, 1994, and I informed General Counsel Jean Hanson of the agreement. The agreement placed Ms. Kerner solely under the supervision of the Deputy Inspector General in connection with the OIG investigation into Treasury/White House contacts concerning the collapse of Madison Guaranty Savings and Loan. A copy of a memorandum from the Deputy Inspector General to the General Counsel documenting the agreement is attached as tab 6.



October 14, 1994

Re: Testimony Before the Banking Committee

Ms. Kelly Cordes  
Chief Clerk  
United States Senate Committee  
on Banking, Housing  
and Urban Affairs  
Washington, D.C. 20510-6075

Dear Ms. Cordes:

This letter responds to Chairman Riegle's letter of September 28, 1994, which asks that I send my reply to you.

I testified before the U.S. Senate Committee on Banking, Housing and Urban Affairs (the "Committee") on August 2, 1994, as a member of the Thrift Depositor Oversight Board. On that date, Senator Gramm asked me to review my testimony before the Committee on February 24, 1994, and to write a letter to the Committee for the purpose of completing the record with respect to that testimony.

In response to Senator Gramm's request, I have again reviewed my testimony of February 24 and wish to advise the Committee that I have nothing to add to that testimony which is not covered by the depositions taken of me by the Counsel for the Committee and the Inspectors General, my written statement of August 2 submitted to the Committee for the record and my testimony before the Committee on that day.

After February 24, of course, much new information came to my attention and to that of the public. This information is covered in my testimony and that of others before the Committee, as well as in the July 26 Chronology prepared by White House Counsel Lloyd Cutler, the Report of the Office of Government Ethics dated July 31 and various documents produced to the Committee in connection with the recent hearings.

Attached to this letter as Appendix A are my responses to the additional questions from Senator Bond attached to Chairman Riegle's September 28 letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger C. Altman", written in a cursive style.

Roger C. Altman

APPENDIX AAdditional Questions from Senator Bond

1. To whom did you show copies of the transcript of your deposition taken by the Treasury/RTC? On what dates did you show others this transcript?

Answer

I did not show anyone a copy of the transcript of my deposition taken by the Inspectors General of the Treasury and RTC. I am aware, however, that Treasury made transcripts of the IG depositions of all Treasury witnesses generally available to counsel for the Treasury witnesses, and that my private attorneys exchanged IG transcripts with attorneys for certain witnesses. To the best of my knowledge, these events occurred after the completion of all depositions and interviews in the matter.

2. Did you discuss with anyone whether Francine Kerner should assist the Office of Government Ethics in the investigation requested by Secretary Bentsen? If the answer is yes, with whom did you discuss this issue, and when did this/these discussion take place?

Answer

To the best of my recollection, I have not discussed with anyone whether Francine Kerner should assist the Office of Government Ethics in the investigation requested by Secretary Bentsen. I may have inquired of Counsel at Treasury the process which the Office of Government Ethics would be likely to follow in its investigation. I also am aware that my private attorneys discussed with Ms. Kerner, and the IG personnel conducting my deposition, the procedures to be followed in the course of the IG's investigation, such as the procedures with respect to the production of documents.

DIARY OF JOSHUA L. STEINER

I. 12/2/93 - 1/9/94, lines 1-3: Whitewater (Clinton's real estate investments) and Madison S&L dominate the news. Clear lesson: release everything right away.

II. 1/24-2/12/94, lines 1 forward: Two extremes: In DC spent long hours w/ RA going over how he should handle the RTC's investigation of Whitewater. The statute of limitations on Madison Guaranty cases was supposed to expire 2/28. Should RA recuse himself or should he stay involved. The hurdle was so high (fraud) that it seemed unlikely the RTC would bring suit or seek a tolling agreement from BC/HRC, but the chance existed. RA originally decided to recuse himself but under intense pressure from the White House, he said he would make the final determination based on a recommendation from Ellen Kulka, the GC. The GOP through D'Amato began a countdown to the 28th which was particularly ironic since he had voted against extending the statute during the RTC reauthorization period. As it turns out, RA's problem will probably pass when the Congress decides to extend the statute once again. Pressure on RA will certainly mount next week when Congress holds hearings on the RTC given that Ricki Tiegart the FDIC nominee declared that she would recuse herself from all Madison related issues due to her friendship w/ the Clintons. The WSJ also got into the act w/ a scathing attack on RA and Gene Ludwig.

III. and IV. 2/13-2/27/94, line 7 forward: Every now and again you watch a disaster unfold and seem powerless to stop it. For weeks we have been battling over how RA should handle the RTC investigation of Madison Guaranty S&L. Initially, we all felt that he should recuse himself to prevent even the appearance of a conflict. At a fateful WH mtg w/ Nussbaum, Ickes and Williams, however, the WH staff told RA that it was unacceptable. RA had gone to brief them on the impending statute of limitations deadline and also to tell them of his recusal decision. They reacted very negatively to the recusal and RA backed down the next day and agreed to a defacto recusal where the RTC would handle this case like any other and RA would have no involvement. We are very concerned that at the RTC oversight hearings the GOP would hammer away at the recusal issue so we renewed discussions w/ the WH about what RA would do when his term expired on March 30. Once again they were very concerned about him turning the RTC people they didn't know so RA did not formally commit himself to stepping down (he could stay on if we had formally nominated a successor). At the hearing, the recusal amazingly did not come up. The GOP did hammer away at whether RA had had any mtgs. w/ the WH. He admitted to having had one to brief them on the statute deadline. They also asked if staff had met, but RA gracefully ducked the question and did not refer to phone calls he had had. The next day, the NYT ran a front page story on the mtg. The heat was on. We spent a tortured day trying to decide if he should recuse himself. I spoke w/ Podesta to let him know

of our deliberations. Very frustrating that he was the chosen point of contact since he clearly was not in the complete confidence of George and Harold. After Howell Rains from the NYT called to say that they were going to write a brutal editorial, RA decided to recuse himself. Harold and George then called to say that BC was furious. They also asked how Jay Stephens, the former USA, had been hired to be outside counsel on this case. Simply outrageous that RTC had hired him, but even more amazing when George then suggested to me that we needed to find a way to get rid of him. Persuaded George that firing him would be incredibly stupid and improper. The NYT ran a very mean editorial which referred to the "bone headed conclave convened by RA." Lessons: Do what you think is the right thing early (recuse); remember that everything might eventually be asked about under oath; don't let the WH get involved in any way.

V. 2/13-27/94: Such an incredible city. Been battling w/ the RTC/Madison. Wrote two pages about what's been going on, suddenly realized that I could be subpoenaed like Packwoods and the most innocuous comments could be taken out of context. So on that subject, nothing.

# STEPTOE & JOHNSON

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October 12, 1994

Kelly Cordes  
Chief Clerk  
Senate Committee on Banking,  
Housing and Urban Affairs  
Dirksen Senate Building  
Suite 534  
Washington, D.C.  
20510-6075

Dear Ms. Cordes:

Enclosed for review please find a copy of the handwritten diary entries of Joshua Steiner which were the basis for the transcribed version he had previously submitted. During his testimony Mr. Steiner consented to the Committee's request for the handwritten entries.

We apologize for any inconvenience caused by our delay. If you have any questions, please contact Evan Barr at (202) 429-3762.

Sincerely,



Kerry E. Reichs  
Legal Assistant

Wh. dominated Cal. state's real estate, unbalanced  
 and undiversified. SEC dominates the news. Clear lessons:  
 replace every by signed away.

...-11-11-77 UC, Cambridge, UC. Two extremes: in DC spent long hours of Red going over how he should handle the RTA's investigation of white noise. The statute of limitations on Madison Guaranty cases was supposed to expire 2/78. Should Red rescue himself or should he stay involved. The hurdle was so high (Frank) that it seemed unlikely the RTA would bring such or seek a holding agreement from Belting, but the chance existed. Red originally decided to rescue himself but under intense pressure from the White House he said he would make the final determination based on a recommendation from Ellen Kallen in the GC. The GC through O'Donoghue began a campaign to the RTA which was particularly ironic since he had voted against extending the statute during the RTA reauthorization. As it turns out, Red's problem will probably pass when the Congress decides to extend the statute once again. Pressure on Red will certainly mount next week when Congress holds hearings on the RTA given that Rick Tiegard the FDIC nominee declared that she would recuse herself from all business related issues due to her friendship with the Clintons. The WSJ also got into the act w/ a scathing attack on Red at week's end. The other extreme: I went home for the weekend and spent



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His-23/44-20c, NYC, DC. Such an incredible city. Been talking w/  
 the estimations. wrote two pages about what's been going on,  
 suddenly realized that I could be perceived like Parkinson  
 and that the most innocuous comments could be taken out  
 of context. So on that subject, nothing. Finally decided to  
 go to NYC for Thursday's Day.

## M E M O R A N D U M

TO: The First Lady C O N F I D E N T I A L  
FROM: Harold Ickes  
DATE: 1 March 1994  
RE: Resolution Trust Corporation

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Attached is a copy of W. Neil Eggleston's 28 February 1994 memorandum to me regarding certain issues involving the RTC and the Rose Law Firm ("Rose"). Attached to that memo are copies of the FDIC report, dated 17 February 1994, concerning possible conflicts of interest regarding Rose's representation of the FDIC against Madison Guaranty, and the RTC's 8 February 1994 report concerning the same subject.

It is my understanding that shortly after Roger Altman met with Bernie Nussbaum, me and others concerning the RTC statute of limitations, he received an opinion from an ethics officer of the Treasury Department that he, as the acting head of RTC, did not have to recuse himself from matters involving Rose/Madison Guaranty. I will confirm this situation.

Please let me know if you want to discuss the attached.

THE WHITE HOUSE  
WASHINGTON

(revised)

February 28, 1994

MEMORANDUM FOR HAROLD ICKES  
DEPUTY CHIEF OF STAFF

FROM: W. NEIL EGGLESTON  
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--FDIC AND RTC ROSE LAW FIRM ISSUES

The recent release of the FDIC and RTC reports addressing the possible conflict of interest of the Rose law firm in its representation of Madison Guaranty raises a number of issues.

What did the FDIC and RTC conclude, and why does it seem that their conclusions are inconsistent?

1. The FDIC Report.

The FDIC report was released on or about February 17, 1994. It was drafted by the Legal Division of the FDIC, and presented to FDIC Acting Chairman Hove, a Republican.

Frost & Co. was Madison Guaranty's accounting firm in 1984 and 1985. In that capacity, it prepared certain audited financial reports for Madison. The Rose firm used the 1985 audited financial statement in connection with its representation of Madison Guaranty before the Arkansas Securities Commission.

Madison Guaranty sued Frost & Co. in 1988 for the negligent preparation of financial statements. At the time, Madison was represented by the Gerrish firm. McDougal had been forced out of the management of Madison in the summer of 1986. When the FDIC took over Madison Guaranty in February 1989, it determined that the Gerrish firm had a conflict. In March 1989, the FDIC therefore replaced the Gerrish firm with the Rose law firm.

The FDIC report reviewed the time period in which the FDIC was responsible for the conservatorship of Madison Guaranty, from February 28, 1989 to August 9, 1989 (when the RTC was created and took over the conservatorship of failed savings and loans). The FDIC was thus the entity that retained the Rose law

firm to pursue the Frost & Co. litigation. The FDIC report reviewed relevant FDIC and RTC documents and interviewed participants, including FDIC and RTC employees and Rose law firm lawyers.

On the factual issue of whether the Rose law firm had disclosed to the FDIC its prior representation of Madison Guaranty, the FDIC concluded that the record was unclear. The report nevertheless concluded that no conflict existed between the Rose law firm's prior representation of Madison Guaranty and its representation of the FDIC in the Frost & Co. litigation. The report concluded that the firm's representation in 1985 was not "directly adverse" to the representation in 1989.

The FDIC based its conclusion on two grounds. First, it stated that there was no evidence that the firm had any involvement in the creation of the Frost & Co. audit report that became the subject of the 1989 litigation. Second, it stated "we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence." This was one of the sentences that Senator D'Amato attacked so bitterly at the Senate Banking Committee hearing.

On the issue of whether Mr. Hubbell had disclosed his relationship with his father-in-law, Seth Ward, who was then in litigation with Madison Guaranty, the FDIC stated that it was uncertain whether Mr. Hubbell had disclosed the relationship before the FDIC retained the Rose law firm. Nevertheless, the relationship was plainly known to the FDIC within three months of retention. Mr. Hubbell agreed to the creation of an internal firm "firewall" to guard against him receiving information that might be of use to his father-in-law. At the hearing, Senator Faircloth ridiculed what he called an "Arkansas firewall" through which he claimed light and heat could easily penetrate.

At the hearing, Chairman Hove testified that in 1989, FDIC standards required an actual conflict before the agency would bar a retention. Today, the FDIC's standards are much tougher and would bar a retention on the showing of an "appearance of a conflict of interest." Chairman Hove testified that under today's standards, the Rose law firm facts would present an appearance of a conflict.

Chairman Hove agreed to have the FDIC Inspector General ("IG") look into the conflict issue. It was somewhat unclear at the hearing whether the IG would look only at the process by which the FDIC arrived at its decision or would review the substantive issue. It was also unclear whether the IG would apply the actual conflict standard or the appearance of a conflict standard in its review. We should assume, however, that

the IG will adopt the broadest possible interpretation of its mandate.

## 2. The RTC Report.

The RTC report was released on February 25, 1994 by Senator D'Amato.

The RTC report differs in two major respects from the FDIC report. First, the RTC did not interview any Rose law firm attorneys. The RTC reviewed RTC records and interviewed RTC employees only. Second, the report is factual only. The report reached no conclusion on whether the Rose law firm had a conflict. As the report describes its scope, "This investigation focused only on whether or not Rose disclosed its previous representation of Madison to the FDIC and RTC."

The RTC concluded that Rose did not disclose either its prior representation of Madison Guaranty or Mr. Hubbell's relationship with Mr. Ward.<sup>1</sup> The report acknowledges, however, that within a few months of the retention, the supervisory FDIC attorney, Ms. Breslaw, was made aware of Mr. Hubbell's relationship with Mr. Ward. Ms. Breslaw determined that no conflict existed.

The RTC did not hire the Rose law firm; rather, the retention by the FDIC took place before the RTC was even in existence. Further, the RTC acknowledges in its report that it had no outside conflicts committee, nor regulations, guidance or policy on conflicts until after 1989.

The conclusion of the RTC report is that the matter was referred to the Office of the General Counsel (Ellen Kulka) for any action that it deems appropriate.<sup>2</sup>

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<sup>1</sup> An ultimate finding that Rose had not disclosed either the prior representation of Madison Guaranty or the Ward relationship would be a finding that Mr. Hubbell was not truthful in his recollection. Mr. Hubbell told the FDIC when it was preparing its report that he advised FDIC attorneys about the prior Rose representation of Madison Guaranty and believes that he also advised the government attorneys about his relationship with Mr. Ward. Mr. Hubbell was not interviewed by the RTC attorneys during the preparation of their report.

<sup>2</sup> As noted above, the RTC report only addressed the factual issues of representation and disclosure. The report did not attempt to apply the facts to any applicable conflicts rules or regulations. It is not clear what the RTC General Counsel, Ms. Kulka, will do with the report. The RTC has an Outside Counsels' (continued...)

At the hearing, Mr. Altman agreed to refer the RTC report to the RTC IG for review.

What sanction could be imposed if the FDIC/RTC finds that the Rose law firm had a conflict of interest or an appearance of a conflict in handling the Frost & Co. litigation in 1989 and failed to disclose that conflict?

As noted above, it is not clear whether the FDIC or the RTC will review this matter under an actual conflict standard or an appearance of a conflict standard. It would seem that to impose any sanction, the IG would have to decide that the Rose firm violated a duty that was in existence at the time, not a duty that later became more strict.

The most severe sanction that would likely flow from a finding that the Rose law firm had a duty to disclose its prior representation of Madison Guaranty and its relationship with Mr. Ward and that it breached that duty would be that the Rose law firm would be permanently barred from any further work for the RTC or the FDIC (and possibly other banking regulators). Lesser sanctions imposed by the regulatory agencies might also be possible, such as a temporary bar.

Under the facts as we now understand them, it would seem quite unlikely that the RTC could bring a civil action against the Rose firm or any of its attorneys for failure to disclose the conflict. To prevail, the RTC would have to show fraud or intentional misconduct that caused substantial loss to the institution or unjust enrichment to the Rose firm. The RTC could only really show fraud or intentional misconduct if it could demonstrate that the Rose law firm "threw" the Frost & Co. litigation because of its prior representation of Madison Guaranty.

Criminal liability for the Rose firm would seem even more remote. To prevail, the Special Counsel would have to show that Rose acted with intent to defraud the savings and loan or wilfully made false statements to the FDIC/RTC through its failure to disclose the conflict.

What civil matters is the RTC investigating, who can it sue, and why didn't we hear anything about a civil investigation until late 1993?

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<sup>2</sup>(...continued)

Conflicts Committee to which she could refer the report. She could presumably also refer the report with a recommendation to the RTC Acting CEO Jack Ryan for action.



The RTC is investigating whether it has a civil tort action against anyone who caused a loss to Madison Guaranty. This would include insiders such as James and Susan McDougal and members of the Board of Madison. It also includes professionals who provided service to Madison Guaranty, such as the Rose law firm, other law firms, and accounting firms. The Frost & Co. suit is an example of a suit against a professional service provider that caused loss to Madison Guaranty through a negligent audit. The RTC could also sue outsiders, including the President and Mrs. Clinton, if the RTC found that the outsiders worked with insiders illegally to divert assets of the savings and loan. For example, if the RTC believed that the Clinton campaign knowingly received diverted Madison assets at the April 1985 fundraiser or that the Clintons knowingly received other diverted Madison Guaranty assets through Whitewater, it could bring suit. The RTC commonly sues the recipient of a loan where it has information that the borrower knew that the loan was improper.

Under the legislation creating the RTC in 1989, the RTC as conservator of a failed savings and loan had to bring a tort claim within three years of the time the RTC (or FDIC as predecessor) took over the institution. The FDIC took over Madison Guaranty on February 28, 1989. Thus, all torts had to be brought by February 28, 1992. That day passed during the campaign.

The Resolution Trust Corporation Completion Act, signed by the President on December 17, 1993, revived the possibility of a civil action. Under that legislation, a narrow class of torts--those that were fraudulent or involved intentional misconduct and that either caused substantial loss to the institution or unjust enrichment to the defendant--were revived. The statute extended the limitations period such that this category of tort could be brought within five years of the time the RTC took over the institution.<sup>4</sup> Moreover, the statute specifically provided that the five year period would apply even if the three year limitations period had already run.<sup>5</sup>

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<sup>3</sup> I am unaware of any civil suits brought by the RTC prior to February 28, 1992, but I would not be surprised if it had sued McDougal and other insiders. McDougal was indicted in 1989 for bank fraud involving Madison Guaranty, and was acquitted in 1990. It would be fairly common for the RTC to pursue a civil action even after an acquittal.

<sup>4</sup> Torts based on negligence are still covered by the three year statute of limitations.

<sup>5</sup> The statute of limitations for crimes involving financial institutions is 10 years from the date the illegal conduct occurred, regardless of when the RTC took over the institution.

As a result, the RTC would not have been looking into a possible civil suit involving Madison Guaranty after February 1992 and before the passage of the statute last fall. In late 1993 and early 1994, Senator D'Amato and Rep. Leach recognized that the legislation had revived the possibility of an RTC lawsuit in the Madison matter. Both took to the floor of their respective chambers, aggressively urging the RTC to commence an action before the statute expired. In early 1994, the RTC--then faced with a statute of limitations that would run by the end of February--hired the San Francisco-based law firm of Pillsbury, Madison and Sutro to assist it in determining whether to bring any civil actions arising out of Madison.<sup>6</sup>

In February 1994, the statute of limitations was extended once again, through the life of the RTC, which is expected to expire on December 31, 1995.

Now that Mr. Altman as Acting CEO of the RTC has recused himself from further involvement in Madison Guaranty matters, who at the RTC will be the decision-maker on whether to bring a civil action arising out of the failure of Madison Guaranty?

Following his testimony before the Senate Banking Committee on Thursday, Mr. Altman recused himself as Acting CEO of the RTC from any further involvement in Madison Guaranty/Whitewater matters.

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<sup>6</sup> The partner at Pillsbury assigned to this matter is Jay Stephens, a Republican who was a member of the Reagan and Bush administrations. From 1981 to April 1986, Mr. Stephens was a political appointee at the Justice Department. By 1986, he had become Associate Deputy Attorney General. From April 1986 through March 1988, he was Deputy Counsel to the President. In that capacity, he had a role in the Iran/Contra Affair. After published reports that Oliver North had shredded documents, Mr. Stephens called Fawn Hall. When she denied (falsely) that any improper shredding had taken place, Mr. Stephens accepted her denial, and the White House issued a statement denying the shredding.

In March 1988, President Reagan appointed Mr. Stephens to be U.S. Attorney for the District of Columbia. When President Clinton sought the removal of all U.S. Attorneys in April 1993, Mr. Stephens called a press conference at which he suggested that the President was acting to frustrate the investigation of Rep. Rostenkowski. At the time, Senator Dole called for hearings into what he termed the "March massacre." Until January 1994, Mr. Stephens had been considering running for the Senate.

The top official at the RTC who will be making these decisions on Madison Guaranty is Jack Ryan. Mr. Ryan was formerly with the Office of Thrift Supervision. He is a career official. His principal advisor will be Ellen Kulka, now General Counsel of the RTC, who also came from OTS. Ms. Kulka is also a career official.

We intend to nominate a person for the position of CEO of the RTC within the next few weeks. We can anticipate that any person the President nominates will be pressured to recuse from any Madison-related matters. If the person refuses to recuse and is confirmed, then that person will become the decision maker. If that person is forced to recuse to achieve confirmation, then Jack Ryan would remain the decision-maker on Madison matters at the RTC.

W.N.E.

**FDIC**Federal Deposit Insurance Corporation  
Washington DC 20429

General Counsel

February 17, 1994

MEMORANDUM TO: Chairman Howe

FROM: Douglas H. Jones *Doug H. Jones*  
Acting General Counsel

SUBJECT: Report on the Retention of the Rose Law Firm

As you requested, we have reviewed the FDIC's 1989 retention of the Rose Law Firm with respect to Madison Guaranty Savings and Loan. Attached is a report on our review and findings. As you can see from the report, we found no basis to conclude that the retention involved a conflict of interest by the law firm. Accordingly, we are not recommending any sanctions against the firm.

Attachment

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February 17, 1994

**LEGAL DIVISION REPORT ON THE RETENTION OF THE ROSE LAW FIRM  
FOR THE MADISON GUARANTY SAVINGS AND LOAN CONSERVATORSHIP**

The purpose of this report is to review the facts and circumstances surrounding the retention of the Rose Law Firm (the "Firm") for the representation of the conservatorship of Madison Guaranty Savings & Loan (the "Conservatorship" and the "S&L", respectively) in litigation against the Frost & Co. ("Frost") accounting firm. It explores (1) whether the Firm's prior representation of the S&L before the Arkansas Securities Commissioner constituted a conflict of interest; (2) whether the litigation against the Conservatorship by the father-in-law of the Firm partner in charge of the Frost litigation was a conflict of interest; and (3) whether any action against the Firm is warranted.

Assertions have been made that the Firm had conflicts of interest that should have prohibited it from representing the Conservatorship and the FDIC in the Frost litigation. We have reviewed the time period in which the FDIC was responsible for managing the Conservatorship (from February 28, 1989 through August 9, 1989, when the Resolution Trust Corporation was established) to determine the facts related to the Firm's retention. As a part of our review, we looked at all relevant internal FDIC and RTC materials from that time, reviewed relevant materials identified by the Firm, and interviewed each of the participants and others who were involved with the Conservatorship.

As detailed below, based on the information available to us, we have found no basis to conclude that under the then applicable rules either situation involved a conflict of interest. Accordingly, we recommend no sanctions against the Firm.

**Background**

On February 7, 1989, the FDIC entered into an agreement with the Federal Savings and Loan Insurance Corporation ("FSLIC") to act as agent for the FSLIC in any receivership or conservatorship appointed for an insured savings association after January 1, 1989. On February 28, 1989, FSLIC was appointed conservator for the Madison Guaranty Savings & Loan. Pursuant to the agreement with the FSLIC, the FDIC was appointed the managing agent for the Conservatorship. In that role, the FDIC was required to marshal the institution's assets and pursue all claims by and defend those against the S&L. Among the litigation existing at the S&L at that time was a suit against the institution's former auditor, Frost & Co. As managing agent, it was the FDIC's responsibility

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to determine whether that suit had any value and, if so, to continue the pursuit of the action. The FDIC's formal role ended on August 9, 1989, with the creation of the RTC, whose function was to serve as receiver or conservator for any S&L closed after January 1, 1989.<sup>1</sup>

#### The Firm's Prior Representation

In 1985, the Firm represented the S&L before the Arkansas Securities Commissioner on two matters: a plan to issue a \$3 million private placement of preferred stock in the S&L, on which the Commissioner was asked to issue an opinion; and an application by which the S&L, assuming it raised the capital, sought to set up a service corporation that would become a wholly-owned broker dealer of securities. The opinion was issued on May 14, 1985 and the Commissioner approved the service corporation on September 20, 1985, although placing a condition on the approval that the S&L must raise the capital by December 31, 1985. The capital was never raised and the plan was not implemented. There were no communications between the Commissioner's staff and the Firm after 1985 with respect to the securities placement or the plan.

Part of the submission in support of these two applications was an audit of the financial statements of the S&L performed by Frost for calendar year 1984. Certain adjustments to these financial statements were questioned by the Commissioner's office. The records of the Commissioner's office show that the effect of those adjustments was explained in letters from Frost and John Lathan, the S&L's chief executive officer, attached to a letter from the Firm on July 23, 1985. There is no indication that the Firm retained the auditor, assisted in any way in the audit or took any position as to the quality of the audit.

In 1988, the S&L initiated litigation against Frost charging that the auditor had been negligent, reckless and breached its contract by failing to fairly represent the S&L's financial condition in the 1984 and 1985 audits. The S&L was represented in the litigation by the law firm of Gerrish and McCreary.

The Gerrish firm also was involved in defending directors and officers of failed banks in actions instituted by the FDIC. After FDIC was appointed managing agent of the Conservatorship, the FDIC staff attorney responsible for the Frost litigation concluded that, pursuant to FDIC policy, the firm had a conflict

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<sup>1</sup>The FDIC's Legal Division continued to provide legal support to the RTC with staff dedicated to RTC legal matters until September 1991, when all RTC legal matters were assumed by a newly created Legal Division within the RTC comprised of the FDIC staff formerly dedicated to RTC work.

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of interest with the FDIC and had to be replaced. The staff attorney also concluded that few firms in Arkansas had the experience and capacity to do accounting malpractice work, which is considered to be complex in nature. The staff attorney first considered the Arkansas law firm of Wright, Lindsey & Jennings, which had represented FDIC in other matters, but it too had a conflict of interest. The staff attorney then contacted the Rose firm based on previous work done by the Firm on behalf of the FDIC in connection with the Corning Bank failure.<sup>2</sup>

The staff attorney contacted a partner of the Firm (based on the staff attorney's recollection, probably Webster Hubbell) and asked the Firm to take over representation. The staff attorney is sure the Firm would have been asked about any conflicts of interest, but due to the passage of time has no specific recollection of making that request or any response that may have been made. Richard Donovan, a partner with the Firm who worked on the case, states that he recalls Mr. Hubbell having advised the staff attorney of prior representation of the S&L on a matter involving the Arkansas Securities Commissioner. Mr. Hubbell's recollection differs. He recalls advising the staff attorney very generally that the Firm had done a small amount of work for the S&L years earlier, but that he did not view that as amounting to a conflict. He believes the work he was aware of was lending and collection work. He says he does not believe he was aware of the earlier securities work at that time, so he does not believe he discussed it with the staff attorney then. The FDIC staff attorney has no recollection of the issue being raised and says that if it had been it would have been discussed with the attorney's supervisor. The supervisor has no recollection of the issue being raised.

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<sup>2</sup> While the Firm had sent a letter to the FDIC dated February 28, 1989, soliciting work relating to any S&L failures, it does not appear the staff attorney was aware of that letter or that it influenced her decision to ask the Firm to represent the FDIC. Also, assertions have been made that the letter may have been deceptive and misled the FDIC regarding prior representation because it stated "the Firm does not represent any savings and loan association in state or federal regulatory matters." However, the letter also states "[f]rom time to time we have provided specialized service to some savings and loan associations in such areas as employment discrimination, work-out of participation loans and bankruptcy." The firm also acknowledged in the letter that there may be individual transactions or situations where a conflict of interest could arise.

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The Existence of a Suit Involving Mr. Hubbell's Family

At the time the conservator was appointed (and when the firm was retained), Mr. Hubbell's father-in-law, Seth Ward, Sr., was involved in litigation with the S&L. Mr. Hubbell's father-in-law had obtained a judgment of roughly \$470,000 for commissions allegedly owed him by the S&L for the sale of real estate on behalf of Madison Financial Corporation, a subsidiary of the S&L. That case was then on appeal.

Mr. Hubbell says he was aware of the Ward litigation but he did not view it as a conflict. He says he believes he did advise the staff attorney about it, but he cannot be certain. The staff attorney does not recall whether the Ward relationship was raised at the time of the firm's retention in March of 1989. However, another FDIC staff attorney became aware of the relationship and informed the staff attorney on the case, in a letter dated June 8, 1989. At that time, the second staff attorney expressed concern that Mr. Hubbell would have access to information through his representation that could be damaging to the litigation involving Mr. Ward. After reviewing the facts, the staff attorney responsible for the Frost litigation concluded that the facts did not pose a conflict. On June 23, 1989, the staff attorney wrote to the FDIC's Managing Agent for the Conservatorship concerning the Hubbell/Ward relationship, stating that Mr. Hubbell had not represented Mr. Ward in the past and he would not do so in the future.<sup>3</sup> Mr. Hubbell then sent a letter to the FDIC Managing Agent, dated June 28, 1989, in which he affirmed that he had not and would not in the future represent Mr. Ward in the dispute with the S&L.<sup>4</sup> Mr. Hubbell also confirmed in an interview that he had not drafted any documents that were involved in the Ward litigation.

<sup>3</sup> The staff attorney's letter also noted that the primary attorney in the case was Richard Donovan, not Mr. Hubbell, and stated that Mr. Hubbell was involved only in an indirect way. Based on discussions with the staff attorney, this was meant to indicate that Mr. Donovan, as the junior partner on the case, would do most of the day-to-day work. Based on fee bills for the case, Mr. Hubbell performed a significant amount of work.

<sup>4</sup> The issue was raised again after Mr. Hubbell's letter when an FDIC credit specialist sent a memorandum to his supervisor expressing concern about the relationship and seeking senior level review of the situation. This memorandum also was called to the attention of the FDIC's Regional Counsel indicating that this should be "a Washington issue" because the staff attorney responsible for the Frost litigation was based in Washington, D.C. No further action appears to have resulted from these subsequent memoranda.



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As an added precaution, according to Mr. Hubbell, Mr. Donovan and Gary Speed, another partner at the firm who worked on the Frost case, the firm imposed an informal, unwritten procedure in connection with the Frost litigation that kept Mr. Hubbell from having access to information about his father-in-law. According to Messrs. Donovan and Hubbell, Mr. Hubbell was not allowed access to material such as an investigative report done by the S&L's prior attorneys, and he was kept out of several depositions when information concerning Mr. Ward's loans was expected to be involved. Mr. Speed states that Mr. Hubbell would leave the room if Mr. Ward's name came up during discussions, and that he and Mr. Donovan would not discuss Mr. Ward in the presence of Mr. Hubbell.

### Analysis

#### Criteria for Determining Whether a Conflict Exists

The standards governing the professional conduct of attorneys, including issues relating to actual and potential conflicts of interest, are set forth in codes or rules of professional responsibility and conduct adopted by the various states. Many states have adopted, or have patterned their rules on, the American Bar Association's Model Rules of Professional Conduct ("the Model Rules"). Arkansas adopted the Model Rules as its rules of conduct for attorneys in 1985. The Model Rules generally prohibit an attorney from representing a client where the attorney also represents or previously represented another client whose interests are adverse to the first client. The Model Rules provide that a client may waive a conflict of interest by consenting to the representation after consultation with the attorney and provided the attorney reasonably believes the representation will not adversely affect the relationship with the other client. MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.7. Under the Model Rules, and all the state rules of which we are aware, it is the attorney, not the client, who has the primary responsibility to identify conflicts of interest when approached with a request to represent a client with respect to a new matter.<sup>5</sup>

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<sup>5</sup> Notwithstanding that the responsibility to identify any potential conflicts rests principally with the attorney, in 1990 the FDIC Legal Division adopted comprehensive policies and procedures governing the retention of law firms and the waiver of actual or potential conflicts of interest. In 1989, the FDIC's conflicts procedures, however, were less formal. Prior to their retention, firms generally were required to respond to a series of questions regarding past and current representations. Unfortunately, in early 1989, due to the tremendous increase in workload as a result of the FDIC's added FSLIC responsibilities,

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The relevant provisions under the Arkansas rules of professional conduct provide that:

"A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless: (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and (2) each client consents after consultation"; and

"A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless: (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation."

#### The Firm's Prior Representation

The information regarding whether the Firm disclosed that it had represented the S&L on the prior securities matter is unclear. The more important question, however, is whether a conflict of interest existed that should have been disclosed before the firm agreed to represent the conservator.

In essence, the Firm represented the S&L's interests before the Securities Commissioner in 1985 and it was representing the S&L's interests (on behalf of the S&L's conservator) in 1989. Previous representation of an institution by itself does not create a conflict when a subsequent conservator is appointed for the institution. There is no indication in the records, or based on our review, that the Firm did anything more with respect to the audit in question than take it at face value in its representation in 1985. There did not appear to be any divergence of interest between their representation in 1985 and 1989. As a consequence, the Firm's representation in 1985 was not "directly adverse" to its representation of the Conservatorship in 1989.

In addition, we have found no evidence that the Firm had a close relationship with the S&L which might call into question its independence. The Firm did not serve as general counsel or exclusive or frequent counsel for the S&L. In addition, no member of the Firm served in any senior managerial or directorial

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such inquiries were not always documented. In this instance, there are no documents showing what inquiry was made of the Firm.

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relationship with the S&L prior to its failure.

Under the Model Rules, disclosure of prior representation such as involved here may not be required. However, where a firm is aware of such a prior relationship, we would expect it to convey that information to our staff to assist in determining whether to retain the firm. It is not clear whether the information was conveyed to the FDIC staff at the time. However, based on our review, we do not believe the prior representation represented a conflict of interest.

The Existence of a Suit Involving Mr. Hubbell's Family

It is uncertain whether the Hubbell/Ward relationship was disclosed at the time of retention. Nevertheless, it was clearly discussed within three months after retention and the staff attorney concluded there was no conflict. That assessment appears to be correct.

Mr. Hubbell had not represented Mr. Ward so there was no conflict of representation directly adverse to the Conservatorship. Also, Mr. Hubbell's representation of the FDIC did not appear to have any effect on Mr. Ward. Under Arkansas rules, unless Mr. Hubbell's representation of the Conservatorship would be "materially limited" by his "responsibilities to" his father-in-law or his own personal interests, no disclosure was required. Also, FDIC procedures, at that time, would not have required the disclosure of the relationship.

While concern was expressed by some FDIC staff shortly after the Firm's retention that Mr. Hubbell would have access to information that could benefit his father-in-law, there is no indication any such information was transferred. Moreover, Arkansas rules of professional conduct (as do all State rules of conduct) prohibit an attorney from revealing information relating to representation of a client, unless the client consents after consultation. As a precaution, the firm apparently imposed its own informal "firewall" to prevent information regarding Mr. Ward from being passed on to Mr. Hubbell. Also, the FDIC's procedures at that time did not require disclosure of a relationship such as existed with respect to Mr. Hubbell and his father-in-law.

Therefore, no actual conflict appears to have existed. While in this case it is unclear whether advance disclosure was made and there was no requirement that Mr. Hubbell's relationship be disclosed, we want to emphasize that on an issue as subjective as this, we believe the better course would have been for the attorney to make clear and full disclosure in writing to the FDIC and let the FDIC as client determine whether in its judgment the representation at issue was likely to affect its interests

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adversely.<sup>6</sup> Nevertheless, that was not specifically required at the time and, when disclosure was made, the FDIC determined the representation was not adverse.

#### Conclusion

In 1989, the Legal Division lacked formal procedures regarding the determination of conflicts of interest and, at the same time, the Division's staff was experiencing an enormous increase in workload due to the rapidly expanding duties of the FDIC. As a consequence, in hindsight documentation regarding the retention of the Firm is more limited than would be ideally hoped for. However, based on our review, we have found no basis to determine that either of the alleged instances involved a conflict of interest.

Therefore, we see no basis to recommend any sanctions against the Firm.

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<sup>6</sup> In 1990, the FDIC adopted formal procedures to deal with conflicts which emphasized that waivers must be sought even where there is only the "appearance" of a conflict. Also, in 1990, the Supreme Court of Arkansas recognized that although the "appearance of impropriety" is no longer specifically a part of the state's rules of professional conduct the principle is still a part of the rules. First American Carriers, Inc. v. Kroger Co., 302 Ark. 86, 787 S.W.2d 669 (1990).



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RTC/OCOS - T94002-WA

ROSE LAW FIRM  
OCOS FILE NUMBER: T94002-WA

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**ROSE LAW FIRM  
OCOS FILE NUMBER: T94002-WA**

**I. BACKGROUND:**

This investigation was initiated based on accounts in The Washington Times and The Washington Post concerning a possible conflict of interest involving the Rose Law Firm (Rose), Little Rock, Arkansas.

**Alleged Conflict:**

1. In 1984 and 1985, Rose represented Madison Guaranty Savings and Loan Association (Madison) before the Arkansas Securities Commissioner. In its representation of Madison, the law firm presented and relied upon an audit report issued by Frost & Company (Frost) on Madison. The law firm represented Madison in its attempt to obtain authorization from the Commissioner to issue a class of preferred stock and to engage in brokerage activities.

2. In 1989, after the failure of Madison, the Federal Deposit Insurance Corporation (FDIC) hired Rose to sue Frost for accounting malpractice in auditing the Madison books in 1984 and 1985. The Frost audit was the same one previously used by Rose in making a case for Madison before the Arkansas Securities Commissioner in 1985.

**Scope of the Investigation:** This investigation focused on whether or not Rose disclosed its previous representation of Madison to the SEC and RTC. Interviews of current or former Rose Law Firm attorneys who may be knowledgeable of this matter were not conducted.

Charles F. Handley, Financial Examiner Supervisor, Arkansas Securities Department, provided documentation that established that Rose did represent Madison before the Department during 1984 and 1985:

1. Attachment 1 is a copy of a letter from the law firm, dated April 30, 1985, to Mr. Handley. The letter identified Hillary Rodham Clinton or Richard Massey as the firm's contact person for further information.

2. Attachment 2 is a copy of a handwritten memorandum dated May 6, 1985, addressed to "Brady." The unknown author of the memorandum instructed "Brady" to "please review and draft response to Hillary."

3. Attachment 3 is a copy of an office routing slip dated May 6, 1985, from "Charles" referring to an April 30, 1985, letter.

Rose Law Firm  
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letter from the firm setting forth Madison's plan to issue preferred stock and a legal opinion that Madison could issue such stock. The author expressed doubt that Madison could enter into such a business practice.

4. Attachment 4 is a letter, dated May 14, 1985, of Beverly Bassett, Savings and Loan Supervisor, to Ms. Clinton, relevant to the authorization and issuance of a class of preferred stock by Madison. Ms. Bassett's letter stated she agreed with Ms. Clinton's conclusion that Arkansas law expressed gave state chartered associations the power to authorize and issue preferred stock.

5. Attachment 5 is a letter, dated July 17, 1985, Mr. Massey, Rose, to various officials of the Arkansas Securities Commission, relevant to Madison's application to engage in brokerage activities. Mr. Massey stated in his letter that either he or Ms. Clinton could be contacted if there were any questions.

6. Attachment 6 is a memorandum, dated July 17, 1985, from Mr. Handley to Ms. Bassett and Nancy Jones regarding Madison's application to form a second-tier, wholly-owned corporation, to engage in securities broker-dealer business. Mr. Handley expressed his concern about adjustments made to Madison's net worth by Madison's accountants in the December 1984 audited financial statements.

7. Attachment 7 is a letter, dated July 25, 1985, Mr. Massey to various officials of the Arkansas Savings & Loan Commission regarding Madison's application to engage in securities activities. The letter is dated July 17, 1985.

**SUMMARY:** Rose had represented Madison prior to the failure of the savings and loan.

### **III. ROSE LAW FIRM REPRESENTATION OF THE FDIC/RTC:**

A. April A. Breslaw, Attorney, Professional Liability Section, RTC, Washington, D.C., provided information and counsel to Madison against Frost.

1. In 1988, Madison filed an accounting malpractice lawsuit against Frost. In 1989, Madison went into conservatorship. At that time, Ms. Breslaw, Attorney, FDIC Directors and Officers Liability Section, replaced Madison's counsel with Rose. The law firm was retained to continue pursuing the accountant malpractice suit against Frost (Attachments 8 and 9).



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2. Ms. Breslaw stated that the lawsuit filed by Rose on behalf of the FDIC (and subsequently the RTC) and Madison centered on the fact that Frost, during their 1984-1985 audit, failed to detect that Madison was insolvent (Attachment 10).

3. Ms. Breslaw stated that the case was settled in 1991 for \$1,025,000 (Attachment 10).

4. Ms. Breslaw provided several of the law firm's billings to FDIC/RTC for its representation in the matter of FDIC/RTC v. Frost & Company and Madison Guaranty Savings and Loan Association (Attachment 11).

5. Further, Ms. Breslaw obtained written confirmation from Rose that the firm billed the FDIC/RTC for a total of \$400,875.55 in the matter FDIC/RTC v. Frost & Company and Madison Guaranty Savings and Loan Association (Attachment 12).

6. In addition to Madison, Rose represented and continues to represent the RTC in legal matters involving institutions other than Madison (Attachment 13).

**SUMMARY:** Rose represented the FDIC and the RTC. In one particular matter, the firm pursued a malpractice suit against Frost for negligence in determining the true financial condition of the Madison during its audit of the institution.

#### **IV. POSSIBLE CONFLICTS:**

A. Frost Matters: Rose represented Madison before the Arkansas Securities Department. That representation involved S&L's attempts to obtain authorization to issue preferred stock. The firm utilized the F

1. Later, Rose was retained by the FDIC (and subsequently the RTC) to pursue an accountant malpractice suit against Frost. The particular issue of the suit was the defective audit which failed to detect that Madison was insolvent.

#### **B. Ward Matters:**

1. In 1989, all files pertaining to the malpractice suit filed against Frost and Company were delivered to Rose, specifically Webb Hubbell, a staff attorney (Attachment 14).

2. Mr. Hubbell is the son-in-law of Seth V. , a Madison "insider", who obtained a judgment against Madison.

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approximately \$477,000 in 1989. Mr. Hubbell was present at the trial of the Seth Ward matter and appeared to have been an interested (indirectly) participant in the Ward proceedings (Attachment 15).

3. The judgement was appealed by the FDIC. Sue Strayhorn, FDIC Litigation Coordinator for Madison, advised that if a new trial was granted, information contained in the Frost audit files (of which Mr. Hubbell had knowledge) could be damaging to the FDIC case against Mr. Hubbell's father-in-law. Ms. Strayhorn brought this to the attention of Paul Jeddalo, FDIC Staff Attorney, in order to make him aware of the situation (Attachment 15).

4. This possible conflict was also raised by Ken Schneck, Madison's Credit Specialist. In addition to the Seth Ward matter, Mr. Schneck also stated that Mr. Hubbell's brother-in-law, Seth Ward II, had also filed suit against Madison. Mr. Schneck stated that during the course of the Frost suit, practices and procedures used in Madison's day-to-day operations would surely be examined. As such, Mr. Hubbell would be privy to this detailed information. Mr. Schneck suggested that "it would be naive to think none of this information would be released to Mr. Hubbell's family (Attachment 16).

5. Ms. Breslaw responded to the concerns of Mr. Jeddalo, Mr. Strayhorn and Mr. Schneck. On June 23, 1990, in a letter to the FDIC, Ms. Breslaw stated that Madison, she had nothing to warrant taking the Frost matter away from Madison (Attachment 17).

As the above two matters were disclosed by Rose. (See below for further disclosure discussion.) The matter involving Seth Ward was brought to the attention of the staff attorney, Madison, April Breslaw, by FDIC attorneys. Ms. Breslaw subsequently determined that no conflict existed. It should be noted that at this time, 1989, there was no Outside Conflict Committee and there were no regulations, policy, or guidance regarding conflict matters. The process, according to Ms. Breslaw, was informal and situations were handled as they came to the attention of the institution. (Attachment 17)

#### **V. DISCLOSURES MADE BY THE ROSE LAW FIRM:**

A. On October 3, 1990, Mr. Hubbell executed a Legal Services Agreement on behalf of Rose with the FDIC. Mr. Hubbell certified that, as part of its agreement with the FDIC, the firm would update any conflicts information in its annual report

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the FDIC. No disclosures were made by Rose at this time (Attachment 13).

B. On August 24, 1992, Mr. Hubbell, in a letter to the RTC provided detailed information on Rose. Mr. Hubbell stated that the firm's prior representation of the FDIC/RTC included Madison Guaranty Savings & Loan. No disclosure was made that the firm represented Madison prior to FDIC/RTC involvement.

1. In his letter, Mr. Hubbell disclosed an unrelated conflict involving a former member's alleged conflict of interest in acting as both borrower and attorney in connection with his personal credit arrangements at FirstSouth. The claim was subsequently settled and the member withdrew from the firm in March 1988.

2. Attached to Mr. Hubbell's letter was an RTC Fit and Integrity Certification which fully disclosed details of conflict involving the former member of the firm (Attachment 14).

C. On December 1, 1992, Mr. Hubbell executed a Legal Services Agreement with the RTC and stated the firm had no conflicts of interest with the RTC or FDIC (Attachment 15).

D. Ms. Breslaw, formerly FDIC and currently with the RTC, advised that she has no recollection that the Rose Law Firm verbally disclosed to her its prior representation of Madison. Ms. Breslaw further stated she had no documentation regarding conversation wherein Mr. Hubbell told her about the firm's representation of Madison (Attachment 21).

~~Summary:~~ ~~None found.~~  
 unrelated to the Frost or Ward matters. No documentation was found regarding a disclosure of either the Frost or the Ward matters.

#### **VI. SUMMARY:**

A. Rose represented Madison prior to its failure. In particular matter, the firm represented Madison before the Arkansas Securities Department in the STL's attempt to obtain a license to engage in brokerage activities. The firm's representation relied upon the STL's representation.

B. Rose represented the FDIC/RTC subsequent to the failure of Madison. In one particular matter, the firm was retained to pursue an accountant malpractice suit against Frost for failure to detect the insolvency of Madison.

C. Rose did not disclose its representation of Madison before the Arkansas Securities Department to the FDIC/RTC.

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Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell, staff attorney at Rose. Both Seth Ward and Seth Ward, II, had filed suits against Madison. The FDIC became aware of this matter, but Ms. Breslaw, the FDIC attorney assigned to the Madison matters, determined that a conflict did not exist.

D. Ms. Breslaw, who was subsequently assigned to the RTC, did retain Rose in 1989 to represent the FDIC/RTC at Madison. Ms. Breslaw did not recall anyone at the firm telling her that the firm had previously represented Madison. No documentation was found which reflected that the firm had disclosed the representation.

E. A F&I Certification and Legal Service Agreements were reviewed and disclosed and firm did not disclose the Frost and Ward matters.

#### VII. DISPOSITION OF THIS REPORT:

A. This report is provided to the Office of the General Counsel for any action which seems appropriate.

B. This investigation was coordinated with the FDIC who conducted a separate, independent investigation of these matters. The FDIC investigating attorney is John Downing.

Attachments

## ATTACHMENTS

1. Letter, dated April 30, 1985, from Rose to the Arkansas Securities Department.
2. Handwritten note, dated May 6, 1985, regarding Rose.
3. Handwritten note, dated May 6, 1985, regarding a letter from Rose concerning the Madison plan.
4. Letter, dated May 14, 1985, regarding issuance of preferred stock by Madison.
5. Letter, dated July 10, 1985, regarding Madison's application to engage in brokerage activities.
6. Memorandum, dated July 17, 1985, regarding the application submitted by Madison.
- ~~7. Letter, dated July 25, 1985, regarding the Madison application.~~
8. Correspondence relating to the transfer of the Frost matter Rose.
9. Electronic mail, dated January 10, 1994, regarding filing submitted by Rose.
10. Electronic mail, dated January 11, 1994, regarding the law firm's involvement in Madison.
11. Assorted invoices from Rose regarding the Frost matter.
- ~~12. Letter, dated January 11, 1994, regarding the Frost matter.~~
13. Listing of matters handled by Rose for the FDIC/RTC.
14. Letter to Rose regarding the Frost lawsuit files.
15. Letter regarding conflict concerns to Breslaw.
16. Letter regarding conflict concerns to O'Donnell.
- ~~17. Letter, dated January 11, 1994, regarding the Frost matter.~~
18. Letter from Rose regarding RTC Legal Services Agreement.
19. Legal Services Agreement between Rose and the RTC.
20. Legal Services Agreement between Rose and the FDIC.
21. Electronic Mail, dated January 10, 1994, from Breslaw to multiple parties regarding this investigation.

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 HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Roger Altman  
 President Interim and  
 Chief Executive Officer  
 Resolution Trust Corporation  
 801 17th Street N.W.,  
 Washington, D.C. 20434

Dear Mr. Altman:

The RTC has acknowledged that the statute of limitations for any civil action arising from the failure of Madison Guaranty will run out on February 28. After February 28, the RTC will not be able to recover any more of the \$47 million the taxpayers were forced to pay to close Madison.

The RTC took over Madison in 1989. Presumably, the RTC has thorough knowledge of the institution, the reasons for its failures and the individuals and activities that contributed to its demise. The RTC made a criminal referral to the Justice Department perhaps as early as October, 1992 based on its extensive information and investigation.

The RTC's inaction on the civil side is therefore even more disturbing. With the civil statute of limitations about to run out, the RTC must take action immediately. Unless the RTC takes actions, the rights of the American people to justice and financial recovery will be forfeited to a legal technicality.

Your February 1 letter offered assurances "that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison." Moreover, you stated that the RTC "will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations."

Beyond this general response, we are seeking specific answers to the following questions:

- ◆ What is the RTC doing to obtain voluntary agreements to extend the statute of limitations from all potential defendants in the Madison/Whitewater matter beyond February 28, 1994?

♦ In the event the RTC cannot obtain tolling agreements, will the RTC file appropriate civil claims against all individuals whom the RTC has reasonable cause to believe may be liable to the United States prior to February 28, thereby tolling the statute and allowing time for refinements to the original complaint?

♦ Will the RTC provide us with a complete report on the status and scope of its "thorough review" as soon as possible?

Time is of the essence. The RTC has had years to investigate Madison Guaranty; it should have complete knowledge of the situation and adequate legal foundation for any civil suits. It has only weeks left to act and it should do so without further delay.

We must respectfully request that you respond fully and promptly to this letter.

Sincerely,

<u>Luc Hainboch</u>	<u>Ayonne Olmato</u>
<u>Frank H. Tynan</u>	<u>Robert F. Bennett</u>
<u>Don Nichols</u>	<u>Mont Lott</u>
<u>Paul Cohen</u>	<u>Strom Thurmond</u>
<u>Paul Brown</u>	<u>Burr Pitt</u>
<u>Ed Roeder</u>	<u>Ann Smith</u>
<u>Barbara</u>	<u>Connie Mash</u>

<del>Alvin</del>	Wang Landon Kaselam
James Burns	Joe Long
Long Evans	Sam Rait
Rich Bennett	Chuck Granceley
Alvin	Pat Smith
Gene Helms	Pat M'G
Rich Bond	Larry Rucker
Paul Dunnington	Jim Jeffers
Alvin	at Stevens
Pat McConell	Theresa Kelley
Pat V. Quinn	Don Harte
Jackie Bennett	John Danner



